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INDIAN APPROPRIATION BILL

SUPPLEMENTAL HEARINGS

BEFORE A

8.

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

CONSISTING OF

HON. CARL HAYDEN, *Chairman.*

HON. JOHN N. TILLMAN.

HON. PHILIP P. CAMPBELL.

HON. WILLIAM W. HASTINGS.

HON. HOMER P. SNYDER.

T. C. BENNETT, *Clerk.*

JANUARY 10, 1919



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GOVERNMENT PRINTING OFFICE
1919

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INDIAN APPROPRIATION BILL.

SUBCOMMITTEE OF COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, January 10, 1919.

The subcommittee this day met, Hon. Carl Hayden presiding.

Mr. HAYDEN. The committee will be in order. The committee was called together this morning for the purpose of hearing protests of the legislative committee of the Chippewa General Council against an item appropriating \$160,000 from the Chippewa funds for the civilization and self-support among the Chippewa Indians of Minnesota. There are some members of that legislative committee here. The committee will be glad to find out who they are and how long they want to discuss this matter. Which one of you gentlemen represents the committee?

Mr. FRANK D. BEAULIEU. Mr. Chairman, I am here representing the committee.

Mr. HAYDEN. Do you want to be heard?

Mr. BEAULIEU. Yes, sir; and Mr. Carl.

Mr. HAYDEN. There will be but two who want to address the committee?

Mr. BEAULIEU. Yes, sir.

Mr. HAYDEN. I presume we might as well begin with Mr. Beaulieu. How long do you think it will take you?

Mr. BEAULIEU. Well, it is a long story, the Chippewa matter, and I do not like to be confined too closely. I would like to have about 15 or 20 minutes.

Mr. HAYDEN. You can have that; but we just want to get an idea about the time, because the committee is anxious to report this bill to the House.

Mr. HASTINGS. The committee will give you a longer time than that. Has Mr. Carl been notified of this meeting?

Mr. BEAULIEU. Yes, sir.

Mr. HASTINGS. He knows about it?

Mr. BEAULIEU. Yes; he knows about the meeting, and he expected to be here.

Mr. HAYDEN. Suppose we arrange that Mr. Beaulieu proceed for 30 minutes.

STATEMENT OF MR. FRANK D. BEAULIEU, A MEMBER OF THE LEGISLATIVE COMMITTEE OF THE CHIPPEWA GENERAL COUNCIL.

Mr. HAYDEN. You are a member of this legislative council?

Mr. BEAULIEU. Yes, sir.

Mr. HAYDEN. Of how many does it consist?

Mr. BEAULIEU. It consists of five. The president of the council is a member ex officio.

Mr. HAYDEN. How are they selected?

Mr. BEAULIEU. They are selected by the general council. The general council is held on the second Monday of July in each year. The general council is a body similar to Congress. There are five reservations or agencies in Minnesota. They select delegates on the second Tuesday in June to represent them in their locality at the general council meeting held on the second Monday in July.

Mr. HAYDEN. This general council represents all the Chippewa Indians in Minnesota?

Mr. BEAULIEU. Yes, sir.

Mr. HAYDEN. Each and every tribe?

Mr. BEAULIEU. Each and every tribe. Each band selects, as I say, representatives, and sends them to the general council. Now, the matter before us is the matter of the \$160,000 to be appropriated out of the trust fund, or the general fund, of the Chippewas of Minnesota, for the alleged purpose of civilization and self-support among the Chippewas. The Chippewa people are substantially unanimously opposed to this appropriation. To make the thing clear, I want to spend a few minutes briefly in outlining the situation as far as Minnesota is concerned. Prior to 1889 there were a lot of different reservations in the State of Minnesota. These reservations extended from the northern boundary of Minnesota—the line between Canada and Minnesota—200 miles south, and possibly 200 miles east. These reservations were not contiguous. The lands of the reservations were interspersed with white settlers. It is safe to say, I guess, that about 10,000,000 acres were contained in this area.

Mr. HAYDEN. In the combined areas?

Mr. BEAULIEU. Yes, sir. In 1899 Congress passed an act known as the Nelson Act. The purpose of this act was to consolidate the Indians of Minnesota into two reservations. There had been disputes as to the ownership in these various reservations by private individuals—these reservations in some cases overlapping one another. There had been constant disputes between these bands as to the reservation, and as to the property of the tribe. Therefore, it was considered best to try and consolidate all of these bands into two reservations, namely, the White Earth Reservation, and the Red Lake Reservation.

By the provisions of the act of 1889 the Indians of the State of Minnesota ceded to the United States Government all the lands which they owned in these various reservations in trust. The condition of the trust was that all the Indians were to be allotted 80 acres of land, or would take allotments under the provisions of the act of 1887, which was known as the general allotment act. The land ceded to the Government, the agricultural lands and timber lands, were to have been sold. The timber was to have been estimated and sold for not less than \$3 per 1,000 feet standing. The lands were to be classified. The lands that were not valuable for timber were to be classified as agricultural lands and were to be sold for \$1.25 per acre. The money received from these sales of timber and agricultural lands was to be placed in the Treasury of the United States to the credit of all the Chippewa Indians of the State of Minnesota. This fund was to draw 5 per cent interest for a

period of 50 years after the allotments provided for in that act had been completed. The interest was to have been used for the civilization and self-support among these people.

Mr. HASTINGS. You say the interest?

Mr. BEAULIEU. A part of the interest. I intended to say, and the balance was to have been paid to the Indians in per capita payments during this 50-year period. The amount to be paid for schools, for educational purposes, was one-fourth of the accrued interest, the balance, or three-fourths of the interest, to be paid per capita. The act itself read:

Provided, however, That Congress may, from time to time, in its discretion, appropriate not to exceed five per centum of this principal fund, in addition to the accrued interest.

Mr. HASTINGS. The principal fund was drawing 5 per cent, and if Congress appropriates that 5 per cent it appropriates it all, does it not, except any accrued interest?

Mr. BEAULIEU. Congress does not appropriate the interest. That is a treaty stipulation by which the Indian Bureau, I presume, has authority to expend without an appropriation, but, as I say, there is a provision in the bill itself that requires Congress, or under which Congress may from time to time, in its discretion, expend not to exceed 5 per cent of this principal fund.

In explaining that provision to the Indians, the commissioners stated, as found in House executive document in the Fifty-first Congress—in explaining that, the Indians were told that “now you have this large permanent fund which will be kept, and which draws interest, and it will be divided amongst you. In no event will this fund be drawn upon, unless in case of unforeseen necessities or failure of crops.” Therefore, it was understood by the Indians that this fund should not be encroached upon except in case of unforeseen necessities or failure of crops, and that Congress did have discretion, under those conditions and under those circumstances only, to take from this permanent fund.

From a legal standpoint, however, I am inclined to believe that the explanation made to the Indians at that time should be the guiding feature, and it is a question—

Mr. SNYDER. Is that explanation a matter of record?

Mr. BEAULIEU. I have it in House document—

Mr. SNYDER. I mean this statement you were speaking of that was made to the Indians, that their capital fund should not be used. Is that a statement of record?

Mr. BEAULIEU. Yes, sir; House executive document—I do not remember what page.

Mr. SNYDER. Will you get it and insert it in your remarks somewhere, where that can be found?

Mr. BEAULIEU. I think I can refer to it right here. It is in Executive Document No. 247.

Mr. HASTINGS. Have you got underlined, so that you could quote little excerpts from it, and put them here in your remarks without quoting it all? I thought perhaps you were sufficiently familiar with it to quote little extracts from that statement, and let them go into your remarks right now, so that we could have the benefit as we proceed.

Mr. BEAULIEU. Well, in explaining his provision of the treaty to the Indians, it was stated to them by the commissioners who negotiated the treaty, substantially—I will not attempt to give the literal words—but substantially it was in these words: That his permanent fund would not be encroached upon, except in cases of failure of crops or other unforeseen misfortune. Those are substantially the words used by Mr. Rice.

Mr. HASTINGS. You say you have that in a document before you?

Mr. BEAULIEU. Yes, sir.

Mr. HASTINGS. We do not expect you to quote it literally, but I thought you would have some statement you could read to the committee which would show what you stated.

Mr. SNYDER. You say the statement can be found in House Executive Document No. 247?

Mr. BEAULIEU. Yes, sir. I do not know whether that is the page. That is the number of the document. I can not recall the exact page.

Mr. TILLMAN. It would be much more satisfactory if you could quote the page and the sentence in full that contains the substance of this statement.

Mr. CHANDLER. I suggest that he be permitted to take these extracts referring to what he states here, and pick it out and put it in the record at this point.

Mr. HASTINGS. Suppose you do that.

Mr. BEAULIEU. Yes, sir. Therefore, it is, as I say, a legal question, first, whether Congress has the authority to appropriate annually from the permanent fund of the Chippewas.

Not only that, but from the legal side, as I say, our people have opposed this appropriation almost unanimously. There are, however, a few of our people who have been receiving—well, pittances, you might say, from the bureau, that is in the way of positions, men and women who are employed in the Indian Service, and those who are receiving rations, for instance, and other things, who would probably be opposed.

Mr. SNYDER. You do not mean they would be opposed to the appropriation?

Mr. BEAULIEU. They would be opposed to striking it out.

Mr. SNYDER. They would be in favor of it.

Mr. BEAULIEU. They would be in favor of it; yes, sir.

Mr. HASTINGS. When did Congress begin to violate what you are pleased to say is your construction of this treaty? In other words, when did Congress or the department begin to use this money?

Mr. BEAULIEU. They began to use this money, I think, in 1891, soon after the treaty—

Mr. HASTINGS. About two years after the passage of the act?

Mr. BEAULIEU. About two years after. There was no permanent fund to the credit of the Chippewas, but Congress loaned the Chippewas a sum of money, which amount was reimbursed afterwards when these lands were sold.

Mr. HASTINGS. I do not want to have you digress from your argument, but did the Chippewas then in 1891 complain about the use of this money, and have they been complaining from that time down to the present time?

Mr. BEAULIEU. As far as I have been able to learn, they have. That is some time back. Of course, I could not personally say, but I have

heard from older Indians, and from those who know, that their complaints were made to the agent and to the inspectors. The Indian at that time could not come to Washington, or did not come. His only source to make his complaints was to his superintendent or to the inspector, and, of course, it is very unlikely that those complaints would be published or would be brought to the attention of Congress. Therefore it may be that there is no permanent record of the complaints or objections of these Indians to this appropriation until probably 7 or 8 years ago, probably 10 years ago, when there may be found some record.

On the White Earth Reservation, which is the most populous reservation in Minnesota, there are about 6,000 Indians. The Red Lake Reservation contains about 1,400. Outside of these two reservations Indians had taken up allotments on ceded lands; that is, lands that had been ceded under the treaty of 1889, which they had a right to do, and remain undisturbed. The Indians, numbering probably 4,000, who took up their allotments on the ceded portions are living in practically a white community. These ceded lands were sold and homesteaded by white settlers. The Indians there live just like any other white settlers in a similar locality. They have their schools, and they have their churches, and I doubt if one would know he was in an Indian country if he drove through there. That situation would apply practically on the White Earth Reservation, the most populous reservation in the State of Minnesota.

By the act of June 21, 1906, commonly known as the Clapp Act, Congress recognized the competency of the mixed bloods on the White Earth Reservation by removing all restrictions from their allotments.

Mr. HASTINGS. Homesteads and all?

Mr. BEAULIEU. Homesteads and all; yes, sir. There are between 5,000 and 6,000 Indians allotted on the White Earth Reservation.

Mr. HASTINGS. You say this act of June 21, 1906, removed the restrictions that applied to the White Earth Reservation Indians?

Mr. BEAULIEU. Yes.

Mr. HASTINGS. Not to the Red Lakes?

Mr. BEAULIEU. Not to the Red Lakes, because the Red Lakes had never taken allotments, and have never been allotted to-day.

Mr. HASTINGS. They hold their land—

Mr. BEAULIEU. In common. I understand that within the past year or so they have taken what they call tentative allotments, but they have not received any title to the allotments, or the selections have not been approved.

Mr. HASTINGS. But this applied only to the adult Indians of the White Earth Reservation?

Mr. BEAULIEU. It applied to the adult Indians of the White Earth Reservation, mixed bloods.

Mr. HASTINGS. Then it exempted or excluded the full bloods?

Mr. BEAULIEU. Yes, sir.

Mr. HASTINGS. About how many mixed bloods were there, actual mixed bloods, on the White Earth Reservation? I believe you have given the entire population as about 6,000.

Mr. BEAULIEU. Yes.

Mr. HASTINGS. Of these 6,000 about how many were adult mixed bloods?

Mr. BEAULIEU. Well, I would venture the statement that possibly there may be 600 adult full bloods on the White Earth Reservation, all told, that have been allotted. They do not know to this day who are full bloods and who are mixed bloods up there. The Government has never made a roll, and there has been some confusion as to that. I have heard men, though, who know the situation up there give their opinion that they do not believe there is a single full blood on the White Earth Reservation. These Chippewas have lived among French people for 175 years, and intermarried with French traders, and it does not seem to me possible that we could find a full-blood Indian upon the White Earth Reservation, because they are the direct descendants of these people who came from the northeastern part of Canada.

Mr. SNYDER. Mr. Hastings, you have not got any estimate yet of the number of mixed-blood adults that were allotted at that time?

Mr. HASTINGS. That is what I was trying to do. You were trying to explain that you did not believe there were any full bloods, but that does not answer the question, because, assuming for the sake of argument that they were all mixed bloods, that does not tell us about how many adults there were.

Mr. BEAULIEU. Adult mixed bloods?

Mr. HASTINGS. Yes; from whom the restrictions were removed. That is what I am trying to get at.

Mr. BEAULIEU. I should say there are over 5,500. I would make that statement.

Mr. HASTINGS. They are not all adults, are they, not all of age?

Mr. BEAULIEU. Oh, adults?

Mr. HASTINGS. Well, I thought from your statement you said—

Mr. BEAULIEU. I said adult Indians.

Mr. SNYDER. Yes; what we want to find out is how many mixed-blood adults were allotted.

Mr. BEAULIEU. As I say, we figure that there is not 10 per cent on the White Earth Reservation that are full bloods.

Mr. SNYDER. How many would that leave that were mixed bloods?

Mr. BEAULIEU. I presume the same proportion would exist amongst the adults.

Mr. SNYDER. What we want to find out is how many mixed-blood adults received their allotments.

Mr. HASTINGS. Mr. Beaulieu, let me put it a little differently. You say there are about 6,000 on the White Earth Reservation.

Mr. BEAULIEU. That were allotted.

Mr. HASTINGS. That were allotted. You say the restrictions were removed from the adult mixed bloods—that is, those who were of age of mixed blood—under the act of June 21, 1906; that was my understanding.

Mr. BEAULIEU. Yes, sir.

Mr. HASTINGS. What the committee is trying to find out is how many of them are grown people, those who are of age, and whose restrictions were removed. Now, are two-fifths of them, three-fifths of them, three-fourths of them, or what? As I understand it from your statement, the restrictions were not removed from the minors, so what we are trying to get—

Mr. BEAULIEU. No; they were not.

Mr. HASTINGS. Were half of them minors?

Mr. BEAULIEU. Minors of the full bloods?

Mr. HASTINGS. About how many were grown people of the mixed bloods, from whom these restrictions were removed? That is what we are trying to get at. Were there 3,000, 4,000, or 5,000? In other words, how many of these were minors?

Mr. CHANDLER. In other words, you want the number from whom the restrictions were removed? That is the point you want, is it not?

Mr. HASTINGS. Yes.

Mr. BEAULIEU. They stopped allotting there in 1900, so there are no more female minors, so we might eliminate them. It is a difficult question to answer. As I say, we have found that there are 90 per cent up there that are mixed bloods.

Mr. SNYDER. If you can not answer the question, that ends it. That is all.

Mr. BEAULIEU. These lands became taxable. These lands were sold—I presume that between 60 and 75 per cent of the lands had been sold under the provisions of this act. Prior to that time the reservation was practically a wilderness. There was no farming, and it was, you might say, a typical wild place. You would go in there and you would not see any farming going on. The Indians lived generally—well, the same as they did years ago. A few of them lived on fishing and hunting, while the great majority of them worked in the lumber camps, and so on.

Now, there is a different situation. The country has settled up and has become populous. Those who sold, as a general rule, went into other lines. The young fellows, as a general rule, departed and went either to school or went to various cities where they engaged in trades. A lot of them have gone to college and some of them have obtained degrees. Some of them are doctors, lawyers, merchants, and there are various mechanics.

So I wanted to get this idea, that the Indian Bureau's report shows there are 6,000 Indians on the reservation that they must look after. I believe that fully 25 per cent of the people who were allotted on the White Earth Reservation have removed, and the only manner in which they are recognized as Indians is that their name appears on the roll, and they receive their per capita payment of \$18 per year.

Mr. HASTINGS. Did that act provide for making a roll?

Mr. BEAULIEU. No, sir.

Mr. HASTINGS. Was a roll, in fact, made?

Mr. BEAULIEU. No.

Mr. HASTINGS. There has been no final roll made?

Mr. BEAULIEU. There has been no final roll completed. The act of 1913 authorized the making of a roll after these lands had been sold. The act of 1913 authorized a roll to be made by three commissioners. They are working on it now, but I do not know when they will ever get it completed.

Mr. TILLMAN. I would like to hear you on this matter in controversy.

Mr. HAYDEN. The sum and substance he has had to say up to the present time is that there are not as many Indians on the reservation that need supervision as the Indian Office sets out. That is all it amounts to.

Mr. BEAULIEU. That is the idea.

Mr. HAYDEN. Now, take up your next point.

Mr. BEAULIEU. Aside from the legal question involved, we protest because we believe this money is not being expended judiciously and wisely; it has not accomplished the result. I have a statement that I would like to read and have it incorporated in the record. I think Mr. Hayden has several copies of it.

(Mr. Beaulieu thereupon read the statement referred to as follows:)

PROTEST OF THE LEGISLATIVE COMMITTEE OF THE CHIPPEWA GENERAL COUNCIL
AGAINST THE ITEM APPROPRIATING \$160,000 OUT OF THE TRUST FUNDS OF THE
CHIPPEWA INDIANS FOR ADMINISTRATIVE PURPOSES.

1. *Only 10 per cent of the Chippewa Indians are incompetent.*—The total membership of the Chippewas of Minnesota is 11,839. (Hearings before House committee, p. 109.) Of this number, as will appear from the same table of figures, 6,555 were allotted and resided on the White Earth Reservation. Practically all of these 6,555 Indians are competent Indians. Mr. Meritt, Assistant Commissioner of Indian Affairs, at a hearing before the Senate Committee on Indian Affairs on February 11, 1918 (hearings on H. R. 8696, the Indian appropriation bill, p. 359), admitted that 90 per cent of them had been declared competent by act of Congress and had received patents in fee for their allotments, the admission being made in these words:

"On the White Earth Reservation, the most populous reservation in the Chippewa country, where they have about 6,000 Indians, they practically all have received patents, and 90 per cent of the adult Indians are no longer under the jurisdiction of the Federal Government, so far as their lands are concerned."

Thus, according to the statement of the assistant commissioner, 90 per cent of the 6,555 Indians on the White Earth Reservation have been emancipated, and only 10 per cent, or only 655, remain under the control of the department and are incompetent.

Mr. MERITT. Right here, Mr. Chairman. I would like to say that my statement referred to the adult Indians—that 90 per cent of the adult Chippewa Indians of the White Earth Reservation came within the provisions of the Clapp Act. Of course, I did not mean to say that 90 per cent of the Indians of the White Earth Reservation were competent, because probably more than one-half of those Indians are minors and do not come within the provisions of the Clapp Act.

Mr. HAYDEN. Proceed.

Mr. BEAULIEU (reading):

The condition of competency of the 5,284 members of the Chippewa Tribe allotted, or who reside off the White Earth Reservation, will compare favorably with the 6,555 allotted, or who reside on the White Earth Reservation. This is particularly true because of the fact that many of the poorer and more incompetent Indians were removed, subsequent to 1889, to the White Earth Reservation and there allotted. Therefore it is fair to assume that at least 90 per cent of the 5,284 members of the tribe allotted, or who reside off the White Earth Reservation, are competent Indians. Thus, to-day, while the membership of the tribe is 11,839, only 10 per cent, or about 1,183, can be properly classed as incompetent, for whose support and civilization any appropriations are necessary.

2. *There was spent last year \$776,819.41 for the alleged support and civilization of 11,839 Chippewas, or over \$65 per head, 99 per cent of whom are competent.*—For the support and civilization of the Chippewa Indians of Minnesota there was spent last year, according to the official report of the Indian Bureau (hearings, pp. 408–414), from the trust funds of the Indians, \$503,392.94, and from public and other funds, \$273,426.47, or a total expenditure of \$776,819.41. Of this amount, \$221,026.82 was paid out in per capita payments to all the members of the tribe, and \$126,292.92 was paid out in per capita

payments to the 1,496 members of the tribe residing on or enrolled with the Red Lake Band. Thus of the \$776,819.41 expended for the support and civilization of the Chippewa Indians of Minnesota last year, \$347,309.74 was paid out in per capita payments and \$429,500.67 was expended for administrative purposes.

Mr. HAYDEN. Let me interrupt you right there. The heading of this statement says that \$776,819.41 was expended for the alleged support and civilization of these Indians, or \$65 per capita. Then you proceed in the body of the statement to deduct from that amount the \$347,309.74, which was paid out in per capita payments, leaving a balance of \$429,500.67, which you say was expended for administrative purposes. Well, now, as a matter of fact, you would include in the administrative purposes all expenditures for schools and things of that kind, would you not?

Mr. BEAULIEU. Yes, sir.

Mr. HAYDEN. You call the maintenance of schools administrative purposes. Is that a fair statement?

Mr. BEAULIEU. Well, my statement includes the maintenance of schools.

Mr. HASTINGS. Do you analyze the expenditure of these \$429,000 further on in your statement there?

Mr. BEAULIEU. No, sir; that is something we never could ascertain. We could never find out where this money was going.

Mr. HAYDEN. There has been printed on the same pages in the hearings to which you refer a long statement here by the Indian Office showing exactly the amount expended on each Indian reservation.

Mr. BEAULIEU. There is a statement in the hearings there—a statement as to so much for schools.

Mr. HAYDEN. Not only so much for schools but so much for schools on each reservation and how much was expended for salaries and how much for other expenses in each school. I hardly think that, having the hearing before you, you could not find out where the money went.

Mr. BEAULIEU. Say, for instance, \$57,000 for schools. That includes supplies and a great many other things in connection with the schools—stationery, I might say, and other things of that kind. It is a lump sum.

Mr. HASTINGS. What you perhaps mean to say is that prior to these hearings, while you were at home, the Indians out there did not know for what purpose this money was expended.

Mr. HAYDEN. But he sets out in his statement here that they have never been able to find that out, and he refers to certain pages of the hearings where he gets the figures. The pages to which he refers subdivide expenditures from this permanent fund into salaries, wages, traveling expenses, transportation of supplies, telegraph and telephone service, subsistence and clothing, forage, fuel, medical, educational, stationery, and office supplies, equipment, repairs to buildings, per capita payments, and then a miscellaneous column.

Mr. SNYDER. Tell us some particular instance that you claim is unnecessary.

Mr. BEAULIEU. At the school up there in my State they have a great number of horses, for instance—teams of horses, probably five teams of horses up there, and I think they cultivate possibly 15 or

20 acres a year. They buy all their hay and pay top-notch price for it. It is delivered there to the school. The same way with grain. There is no grain raised for these horses. They buy all their grain and it is delivered to the school. Hay for probably 35 head of stock is bought. This stock, as I understand from the boys at the school—the dairy herd—they say they do not know what it is to get butter or milk or even cream, so I believe there is one thing that is absolutely unnecessary, and it is a big expense.

Mr. SNYDER. Do they not milk these cows?

Mr. BEAULIEU. They attempt to milk them. I think there is something about it in the hearings where it shows how negligently this dairy was managed. The farmer was recommended to be dismissed or transferred. I think he has been transferred.

Mr. SNYDER. You think there is no real need for five teams of horses to cultivate 15 acres of land?

Mr. BEAULIEU. I do not.

Mr. SNYDER. You do not understand what they do with the milk that comes from 35 dairy cows that is not used for the school?

Mr. BEAULIEU. I have not been able to find out from the students.

Mr. SNYDER. Your investigation has been made among the students of the school?

Mr. BEAULIEU. Yes, sir.

Mr. SNYDER. Did you ever take it up with the superintendent of the school?

Mr. BEAULIEU. No; I have not, for various reasons, personal reasons.

Mr. NORTON. What school is that to which you refer?

Mr. BEAULIEU. The White Earth Boarding School.

Mr. HAYDEN. Is it your idea, then, that by reason of this particular fact that you have disclosed here that we should discontinue the appropriation for the school and stop the school entirely?

Mr. BEAULIEU. No, sir.

Mr. HASTINGS. Are you through with your statement? Have you got a statement prepared?

Mr. BEAULIEU. Yes, sir.

Mr. HASTINGS. Let him get through with it.

Mr. BEAULIEU (reading):

3. *The expenses for administrative purposes aggregated over \$40 per capita for the entire tribe, 90 per cent of whom are competent.*—If all of the 11,839 members of the tribe were incompetent, the expenditure of \$429,500.67 for administrative purposes would be grossly excessive, but the facts are that only about 10 per cent, or 1,183, of the total membership of the tribe are within the incompetent class, and the expenditure of \$439,500.67 for administrative purposes for the alleged support and civilization of 1,183 incompetent Indians, we submit is an inexcusable waste of our trust funds and the public moneys of the United States.

Mr. HAYDEN. Let me again interrupt you. Have you made any effort to ascertain whether there are just exactly 1,183 members of your tribe who are incompetent, or is that an estimate, a guess?

Mr. BEAULIEU. It is an estimate.

Mr. HAYDEN. Is there no way that you could find out how many members of the tribe have been declared competent and how many are not?

Mr. BEAULIEU. No, sir; not a record. We have been trying for years to get some classification as to our full bloods, and as to our

incompetents, so that Congress might know why it is necessary to consider these things.

Mr. HAYDEN. Let me ask you, Mr. Meritt, a question right there. Has the Indian Office any record that will show how many members of this tribe are competent and how many are incompetent?

Mr. MERITT. I think we can give the approximate figures on it from our records in the Indian Office.

Mr. HAYDEN. Why is it necessary to approximate it?

Mr. MERITT. I think we can be fairly accurate in giving the information to the committee.

Mr. HAYDEN. Is there no roll of this tribe?

Mr. MERITT. Yes, sir.

Mr. HAYDEN. Does the roll show whether they are competent or incompetent?

Mr. MERITT. There was a roll, made early after the passage of the Clapp Act, a roll made by Mr. Linnen and Mr. Moorehead, and then later this roll was carefully gone over and checked up, and is known as the Hinton roll. Under this legislation enacted by Congress the Department of Justice was requested to go into this matter and attempt to adjust those suits arising out of the land frauds under the Clapp Act, and that matter is now in process of settlement.

Mr. HAYDEN. The reason why you have not a complete roll is because of certain proceedings to purge this roll of names that should not be on it?

Mr. MERITT. We have not a complete roll, so far as has been determined by the Department of Justice, because certain cases are now pending in the courts.

Mr. HAYDEN. Then the answer to Mr. Beaulieu's argument, as to why he could not get a complete roll of the tribe, is that you can not furnish it until the Department of Justice gets through with these suits in court; is that the answer?

Mr. MERITT. That is the answer, except that we have a roll that is approximately correct, showing the status of the White Earth Indians.

Mr. SNYDER. What is the date of the Clapp Act?

Mr. BEAULIEU. June 21, 1906.

Mr. MERITT. I have that act before me, and I think it will be of interest to the committee to read it. It is only a short paragraph.

Mr. HAYDEN. Read it.

Mr. MERITT (reading):

That all restrictions as to sale, incumbrance, or taxation for allotments within the White Earth Reservation in the State of Minnesota, now or hereafter held by adult mixed-blood Indians, are hereby removed, and the trust deeds heretofore or hereafter executed by the department for such allotments are hereby declared to pass the title in fee simple, or such mixed bloods upon application shall be entitled to receive a patent in fee simple for such allotments; and as to full bloods said restrictions shall be removed when the Secretary of the Interior is satisfied that said adult full-blood Indians are competent to handle their own affairs, and in such case the Secretary of the Interior shall issue to such Indian allottee a patent in fee simple upon application. (34 Stat. L., p. 353.)

There was subsequent legislation by Congress, which is found in the Indian appropriation act of 1907, and which reads as follows:

That all restrictions as to the sale, incumbrance, or taxation for allotments within the White Earth Reservation in the State of Minnesota, heretofore or

hereafter held by mixed-blood Indians, are hereby removed, and the trust deeds heretofore or hereafter executed by the department for such allotments are hereby declared to pass the title in fee simple, or such mixed bloods upon application shall be entitled to receive a patent in fee simple for such allotments; and as to full bloods, said restrictions shall be removed when the Secretary of the Interior is satisfied that said adult full-blood Indians are competent to handle their own affairs, and in such case the Secretary of the Interior shall issue to such Indian allottee a patent in fee simple upon application. (34 Stat. L., p. 1034.)

Mr. HAYDEN. In both of those acts there is ample authority for the Secretary of the Interior, if he so desires, to issue a patent in fee simple and remove all restrictions upon an Indian, if he is competent. What steps has the department taken to carry that out?

Mr. MERITT. We have issued patents in fee to a number of Indians on that reservation.

Mr. HAYDEN. How long since you have had a competency commission in Minnesota to do anything of that kind?

Mr. MERITT. The Department of Justice has had representatives on the White Earth Reservation, and we have had representatives cooperating with the Department of Justice for some time.

Mr. HAYDEN. That is not a competency commission?

Mr. MERITT. No, sir; we have not had what is known as a competency commission on that reservation.

Mr. HAYDEN. Is there any reason why there should not be a competency commission in Minnesota the same as there is everywhere else in the United States where there are competent Indians?

Mr. MERITT. No, sir. It is our purpose to send a competency commission into the Chippewa country as soon as a commission is available.

Mr. HAYDEN. Would there be any objection on the part of the Indian Office if the committee appropriated the money for such a commission either out of the Chippewa Indian fund or public funds?

Mr. MERITT. No, sir; except that we would not want any action taken now that would disturb the action that has heretofore been taken by the Department of Justice, because they are practically at the conclusion of their work and it is expected within the next year that all of the work will be cleaned up and we will know exactly the status of each case, and we will also have recovered for the Indians of that reservation a very large amount of money because of fraudulent transactions.

Mr. CHANDLER. What work is the Department of Justice doing up there? We would like to know.

Mr. MERITT. Congress authorized an appropriation for the Department of Justice to litigate the fraudulent cases arising out of the legislation contained in the Clapp Act.

Mr. CHANDLER. What has that got to do with the question as to how many are competent and how many are not competent?

Mr. MERITT. The question arises as to who are full bloods and who are mixed bloods. Prior to the enactment of the Clapp amendment there was no roll showing the mixed bloods and the full bloods. As soon as the Clapp Act was passed there was a horde of land grafters who went into the White Earth Reservation, and they all contended that the Indians were mixed bloods in order to pass title to their lands, and the mixed bloods as well as the full bloods disposed of their property at a very small per cent of its actual value.

Mr. CHANDLER. Have you such a roll now showing the mixed bloods and the full bloods?

Mr. MERITT. We have prepared a roll of the White Earth Indians, and the question of the status of some of these Indians who have been defrauded of their property is now in litigation in the courts, and the Department of Justice is attempting to work that out.

The CHAIRMAN. Do you mean by that—you say they. Whom do you mean by they?

Mr. MERITT. The people who wanted to buy the lands of the Indians.

The CHAIRMAN. Well, what did they have to do with whether the Indians are full bloods or not? How could they establish the degree of blood of an Indian?

Mr. MERITT. As soon as the Clapp Act was passed even the Indians who had prior to that time claimed that they were full bloods came in and asserted that they were mixed bloods in order to be able to dispose of their property.

The CHAIRMAN. Now you are getting down to something substantial. Do you mean the Indians claimed that they were less than full blood themselves?

Mr. MERITT. The Indians as well as the people who were attempting to buy their property.

The CHAIRMAN. But the statements of the fellows who were attempting to buy their property could hardly be considered as evidence?

Mr. MERITT. No, sir.

The CHAIRMAN. Let me ask you this: How was it determined whether the Indian was a full or mixed blood Indian?

Mr. MERITT. We sent Mr. Linnen and Mr. Moorehead to the White Earth Reservation and they made certain investigations, and they prepared what is known as the Linnen-Moorehead roll.

The CHAIRMAN. But you do not quite get my question. I want to know, originally, when these fellows made the deeds and the courts took up the cases, how did the court undertake to establish whether or not a man was a full blood to determine his competence?

Mr. MERITT. Upon the evidence of the Indians and upon the evidence that was furnished by the Indian Bureau.

The CHAIRMAN. Then what did the fellows state that bought the land? What the fellows said that bought the land really had nothing much to do with the court determining what the degree of blood was? In other words, the court did not permit the fellow who purchased the land to testify as to what blood the Indian had, did it?

Mr. MERITT. They had very little to do with establishing the blood status of the Indian, but they were very active in depriving the Indian of his property.

Mr. HASTINGS. As of what date was this roll made? Was it made as of date June 21, 1906, or was there any provision in the law providing as of what date the roll should be made?

Mr. MERITT. There was nothing in the law providing that a roll should be made. That was one of the unfortunate features of this legislation. It removed the restrictions on the land as to the mixed bloods without there being at that time a roll showing definitely who were mixed bloods and who were full bloods.

Mr. HASTINGS. How were you ever going to determine who were members of the tribe when there is no date as of which the roll was to be made? For instance, there were certain members of the tribe on June 21, 1906, and, of course, 10 years thereafter a lot of those were dead and others were born. Was there any date as of which the roll should be made?

Mr. MERITT. No, sir; not as a matter of law.

Mr. HASTINGS. You know we had the same trouble with the Five Civilized Tribes, and we afterwards fixed a date in there as of which it should be made, and we fixed the date when it should be completed. It is my judgment, without that latter clause being put in there, that we would be making up that roll down there yet.

Mr. SNYDER. Tell us how far you have gotten along with this roll now?

Mr. MERITT. We expect to have this entire matter cleaned up within another year and have the cases disposed of and the compromises settled.

Mr. SNYDER. Would it be possible to arrange to have the roll completed within one year less such cases as were still in dispute or in the course of adjudication?

Mr. MERITT. I think that would be possible.

Mr. SNYDER. You think that would be possible?

Mr. MERITT. Yes, sir.

Mr. SNYDER. Do you think it would be advisable?

Mr. MERITT. I would see no objection to that legislation, provided you excluded those cases that were now in litigation. We should not be required to close pending litigation within a specified time, for the reason that we want to recover as much as possible for the Indians.

Mr. SNYDER. Would your department be willing to agree to present such a roll within one year, provided there was no legislation directing it?

Mr. MERITT. We will do everything within our power to have that roll completed by July 1, 1920.

Mr. SNYDER. You understand now that my suggestion was that it should be completed less those cases that were in dispute or not adjudicated?

Mr. HAYDEN. But it would not be an official roll of the tribe, like upon an act of Congress directing you to make a roll as of a certain date and closing it as of a certain date, would it?

Mr. SNYDER. What I have in mind would be to get that roll before enacting that roll into law.

Mr. MERITT. I think if a roll is approved by the Secretary of the Interior, it becomes binding on the tribe.

Mr. HAYDEN. The Indian Bureau now has authority of law to do that without any more general legislation?

Mr. MERITT. I think so.

Mr. HAYDEN. There is a provision in this bill about tribal rolls.

Mr. MERITT. That provision is for the closing of the rolls. We wanted specific authority to close the rolls so that we could pay out the trust fund under the legislation enacted in the Indian appropriation act of last year.

Mr. HAYDEN. Would that provision apply to the Minnesota situation?

Mr. MERITT. Yes, sir.

Mr. HAYDEN. So you would not need specific authority of law to make a complete roll of the Chippewa Indians?

Mr. MERITT. No, sir.

Mr. HAYDEN. Then let me turn to Mr. Beaulieu. What we gather from Mr. Meritt as to the reason why you have been unable to find out how many Indians there are who are competent and how many who are incompetent, is due, first, to the fact that certain cases are pending in court; second, they are now making a roll. Mr. Meritt promises that within a year from the 1st of next July he will have such a completed roll so that you can know.

Mr. SNYDER. He did not say the 1st of next July. He said within a year.

Mr. HAYDEN. He said within a year.

Mr. SNYDER. You said within a year from July. My question did not refer to within a year from July. It referred to a year from now, when we are making up the next bill.

Mr. HAYDEN. Mr. Meritt in his reply to you said that within a year from next July—July, 1920.

Mr. SNYDER. I did not hear that.

Mr. BEAULIEU. I do not think that anything of that kind will be accomplished.

Mr. HASTINGS. Mr. Meritt, I beg your pardon, but I did not get it. About how many of these cases are in dispute in the courts—approximately how many?

Mr. MERITT. My information is that this commission, which has been adjudicating these cases under legislation enacted by Congress, has already disposed of about 4,000 cases. There are 4,000 Indians on the reservation who are now classified. That leaves approximately 2,000 Indians to be classified.

Mr. HASTINGS. Did I understand you to say that there were certain cases that the Department of Justice had in the courts? That is what I have reference to.

Mr. MERITT. I think there are about two or three hundred tracts of land yet in controversy.

Mr. HASTINGS. That is all there is in controversy, so far as the Department of Justice is concerned?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Some two or three hundred out of a little over 11,000?

Mr. MERITT. Out of 1,600 cases in the courts, all have been disposed of except two or three hundred.

Mr. HASTINGS. About two or three hundred?

Mr. MERITT. Yes, sir.

Mr. NORTON. The Clapp Act provided that Indians less than full blood may dispose of their holdings.

Mr. MERITT. The Clapp Act provided that adult mixed-blood Indians had their restrictions removed, and they of course thereafter were free to dispose of their property as they saw fit.

Mr. NORTON. When was that act passed?

Mr. MERITT. It was passed in 1906 and was amended in 1907.

Mr. NORTON. If in 1908, or after the Clapp Act was passed, a man bought a quarter section of land from an Indian, believing in good faith that the Indian was of mixed blood, and the Indian represented that he was of mixed blood, but it appeared later, after the sale had been consummated, that evidence was found to prove that the Indian was of full blood, what would happen to that land transaction—would it be canceled?

Mr. MERITT. In that case we would require the party to pay what the land was actually worth, and if it was a good-faith transaction we would compromise the case.

Mr. NORTON. Would the sale be approved by the Interior Department? If the land went into the hands of an innocent purchaser could the deed for it be set aside?

Mr. MERITT. It could be set aside on the ground of fraud.

Mr. NORTON. It could be set aside on the ground of—

Mr. MERITT. Fraud, due to the fact that the Indian was of full blood and not capable of disposing of his property.

Mr. NORTON. Fraud would not follow an innocent purchaser?

Mr. CHANDLER. If the Indian was of full blood the deed would be absolutely void.

Mr. NORTON. That is what I was asking.

Mr. MERITT. I think if the Indian was a full blood the deed would be void.

Mr. NORTON. Here is what I want to get at: If after this roll has been made up and this same kind of a transaction is made a man buys a piece of land from an Indian who represents that he is of mixed blood, and it appears on the roll that he is of mixed blood, but a few years after the sale is made evidence is produced to show conclusively that he is of full blood, then what happens to that transaction? Can it be set aside?

Mr. MERITT. After the roll has been approved by the department I think the roll would govern as to the status of the Indian.

Mr. NORTON. That is what I wanted to know, whether this roll would be conclusive evidence as to the quantum of blood?

Mr. MERITT. I think it would be.

Mr. NORTON. Have you legislation providing for that?

Mr. MERITT. The Secretary of the Interior has general authority to approve the rolls of Indian tribes, except where there is specific authority covering that point, like the Osage and the Five Civilized Tribes.

Mr. NORTON. You have a statement here concluding on page 418 of the hearings to the effect that there has been expended for the Chippewa Indians under the act approved May 8, 1906, a total of \$273,426.47 for the fiscal year ending June 30, 1918. In the note you state that the public funds expended amount to \$108,813.47 and the tribal and miscellaneous funds amount to \$164,613. Is that \$108,813.47 included in the appropriation of \$165,000 made by Congress?

Mr. MERITT. I have got the page here. Will you please ask me your question again?

Mr. NORTON. On page 418 there is a statement in the total that \$273,426.47 have been expended from the tribal funds of the Chippewa Indians of Minnesota for the fiscal year ending June 30, 1918. What I want particularly to inquire about was the amount of \$108,-

813.47, which is noted as public funds. From where does that money come?

Mr. MERITT. That comes out of the gratuity appropriation.

Mr. NORTON. That is a gratuity appropriation?

Mr. MERITT. Yes, sir.

Mr. NORTON. That \$108,813.47 does not belong to the Chippewa Indians?

Mr. MERITT. No, sir.

Mr. NORTON. That is an amount the Government gives them gratuitously?

Mr. MERITT. Yes, sir.

Mr. NORTON. That is what I thought.

Mr. MERITT. Out of the appropriation, such as the pay of police and judges, and matrons, and general appropriations of that character?

Mr. NORTON. Let me make an inquiry concerning the expenditures at the White Earth Agency and the White Earth school, on page 416. Is there anyone here representing the Indian Bureau who is personally acquainted with the conditions of that school?

Mr. MERITT. Yes, sir; Mr. Linnen, our chief inspector, has recently visited that school, and can answer your question.

Mr. NORTON. Mr. Linnen, you made the statement that there is an expenditure on that school for forage of how much, do you know?

Mr. LINNEN. I covered that in my report, sir. If you will pardon me a minute I will try to find it.

Mr. NORTON. Did you have such trouble finding out—that is on page 408.

Mr. MERITT. It appears on page 416. For forage at the White Earth Agency is \$261.90. That is on page 416.

Mr. NORTON. As I stated the other day, for six years I have been trying to be able for myself to find out the amount of money that is spent with different agencies in different schools for particular things. To do my best, I have not been able to get any satisfactory knowledge for myself. Now, did you say, Mr. Meritt, that the amount expended for forage during the last fiscal year at the White Earth Agency is \$261.90?

Mr. MERITT. That is in accordance with the report.

Mr. NORTON. What would you say, Mr. Linnen?

Mr. MERITT. That means the money from the Chippewa funds. It is possible that we might have used some forage from the crops raised on the farm.

Mr. LINNEN. I have got it here somewhere.

Mr. CHANDLER. You would not use that out of the appropriation of Congress would you?

Mr. MERITT. We have authority to use grain raised on the farm for feed.

Mr. NORTON. Mr. Linnen, you are acquainted with that. Tell the committee if you can approximately, how much you think has been spent out of the public funds for forage at that school and agency? I think if an Indian agent or inspector is doing what I think he ought to do, he ought to know some of those things. I asked one of the agents, who was going about the country, at the school last summer. What is an Indian agent for, what is an inspector for?

Mr. HAYDEN. Let Mr. Linnen answer one question at a time.

Mr. LINNEN. My report covered the exact amount that was used for forage at the White Earth Agency, if I can just find it, and it shows that it was quite a large amount of money.

Mr. NORTON. Let me call your attention to page 416. I know where it is.

Mr. LINNEN. That is not a part of my report. That is why I am trying to find it.

Mr. NORTON. On page 408, under the item of forage, it recites that at the White Earth Agency there was spent for forage \$1,206.37. and at the White Earth School \$2,138.53.

Mr. MERITT. May I make a correction of my statement here?

Mr. NORTON. Yes.

Mr. MERITT. The statement appearing on page 416 shows that we expended \$261.90 out of the Indian moneys, the proceeds of Indian labor, for forage at the White Earth Agency, and on page 408 the report shows that we expended out of the tribal funds of the Chippewa Indians of Minnesota at the White Earth Agency, for forage purposes, \$1,206.37, and at the White Earth School, \$2,138.53.

Mr. NORTON. That is all together more than \$3,500?

Mr. MERITT. Yes, sir.

Mr. NORTON. Can you tell the committee how much of that has been produced at the agency, or at the school?

Mr. MERITT. I will ask Mr. Linnen, who has recently visited that school and made an investigation of that reservation, to answer that question.

Mr. LINNEN. At the White Earth boarding school during the past year there were 52 acres in crops, and they raised the following products:

Mr. NORTON. On what page is that?

Mr. LINNEN. Page 528. Four hundred and twenty-five bushels of wheat, 315 bushels of barley, 1,800 bushels of potatoes, 100 bushels of rutabagas, 450 bushels of beets, 75 bushels of carrots, 25 bushels of onions, 1,000 heads of cabbages, 12 tons of alfalfa, 20 tons of wild hay, and 65 tons of corn ensilage.

Mr. NORTON. How much out of the tribal funds or public funds, in addition, have they paid for forage there, if you know?

Mr. LINNEN. Well, now, that was what was raised this year. The prior year they had expended on the White Earth Reservation, and I have it some place exactly what was expended at each place, a large amount of money, something over \$4,000 for feed and forage for stock on the White Earth Reservation, which I consider excessive, and I recommended that certain live stock at the day schools and at the agency and at the boarding school be sold and disposed of because of the fact that the forage was costing so much, and there was no necessity for some of the teams or for some of the stock they had.

Mr. NORTON. Did they have at the agency there the Indian boys to assist in the work?

Mr. LINNEN. At the school they did; yes, sir.

Mr. NORTON. At the school?

Mr. LINNEN. Yes, sir.

Mr. NORTON. They do a good part of the work of caring for the horses and cattle?

Mr. LINNEN. Yes, sir; they have a farmer, and the Indian boy pupils assist in caring for them.

Mr. NORTON. Do they buy butter for the school?

Mr. LINNEN. No, sir; and the only butter, I think, that is made is made during the summer months, when the school is in vacation, and they then make the butter and put it away for winter use. During the time the school is in session the milk is all used for the pupils.

Mr. NORTON. They do not make any butter?

Mr. LINNEN. They do not make any butter; no, sir.

Mr. NORTON. Is there any good reason why they should not raise on the agency there, or at the agency, all the forage they need for horses and cattle?

Mr. LINNEN. Well, they have not enough land on which to raise it. They are cultivating a little more land each year, and they have been unable to cultivate enough land.

Mr. NORTON. They have only 50 acres under cultivation?

Mr. LINNEN. Yes, sir; 52 acres.

Mr. NORTON. Is that all they have available for cultivation at the agency?

Mr. LINNEN. Yes, sir; it is practically all at the present time.

Mr. NORTON. How long has the agency been there?

Mr. LINNEN. Well, a great many years; I presume as many as 40 years, possibly longer.

Mr. NORTON. How long have you been connected with its supervision?

Mr. LINNEN. I have been going up there for the past 12 or 15 years.

Mr. NORTON. Have you recommended the cultivation of more land at the agency?

Mr. LINNEN. Yes, sir.

Mr. NORTON. When?

Mr. LINNEN. Well, I do not recall just when; but I have always recommended that they endeavor to raise enough potatoes, cabbage, and things for the pupils, and enough forage for their live stock.

Mr. HASTINGS. Has Mr. Linnen stated whether there was other land available there that could be put in cultivation? I did not get it.

Mr. LINNEN. I do not think there is at present.

Mr. NORTON. There is a great deal of open land around the agency, I think, that could be plowed up?

Mr. LINNEN. It is not controlled by the agency.

Mr. NORTON. It is not controlled by the agency?

Mr. LINNEN. No, sir.

Mr. NORTON. How many acres has the agency under its control?

Mr. LINNEN. I think it has something like 300. A great deal of it is worthless land, and some of it is utilized by others. Some of it is utilized for holding this annual fair or annual celebration, and so on. I think Mr. Fairbanks uses some of the land, or has a filing on some of it for his daughter.

Mr. NORTON. Some of the agency's land of 300 acres?

Mr. LINNEN. Yes, sir.

Mr. NORTON. How long has the present superintendent been up there?

Mr. LINNEN. I think about four years.

The CHAIRMAN. Mr. Meritt, how many rolls have you now of the Chippewas? How many have you at White Earth of the Chippewas?

Mr. MERITT. We have only one permanent roll. We have made three rolls. One was what is known as the Linnen-Moorehead roll, and that was later revised, and that is what is known as the Hinton roll. Mr. Hinton is now superintendent of the White Earth Reservation. Then the Department of Justice, under legislation enacted by Congress, is now preparing an official roll, and that will be the permanent official roll for the White Earth Indians.

The CHAIRMAN. You have two already completed?

Mr. MERITT. Those rolls were more or less informal.

The CHAIRMAN. I know. I am not asking about the character. I am not criticising them. I just want to find out if you have two rolls already completed and you are now making up a third one.

Mr. MERITT. If you want to call those other two rolls, but they are not recognized as official rolls.

The CHAIRMAN. I understand; but what do they show? Do they show the names of all the members of the tribe?

Mr. MERITT. They show the names, the blood status, and the age.

The CHAIRMAN. They show the blood status?

Mr. MERITT. Yes, sir.

The CHAIRMAN. How was that determined?

Mr. MERITT. It was determined after investigation of the records of the White Earth Agency, and passing upon all the evidence available.

The CHAIRMAN. By testimony, or just by the words of the Indians?

Mr. MERITT. I think they took testimony and made investigations before submitting their report.

The CHAIRMAN. Well, now, what method is being pursued in making the present roll?

Mr. MERITT. The present roll is being prepared by a commission.

The CHAIRMAN. What commission? What is the commission?

Mr. MERITT. A commission authorized in legislation by Congress. That roll is being prepared under the direction of the Department of Justice and with the cooperation of the Indian Bureau.

The CHAIRMAN. Who is at the head of the commission, Mr. Powell?

Mr. MERITT. Mr. Powell is one member of the commission, and Mr. Bell, an attorney for the Department of Justice, is another member of the commission.

The CHAIRMAN. Is Mr. Powell from the Indian Bureau or from the Department of Justice?

Mr. MERITT. He is neither from the Department of Justice nor the Indian Bureau. Mr. Powell is a local attorney.

The CHAIRMAN. Does he live here in the city?

Mr. MERITT. No, sir; his home is in Minnesota.

Mr. HASTING. That is the roll you say you are quite confident will be completed within a year from the first of next July?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Were any of these cases tried and disposed of finally, these suits the department brought to invalidate the titles, I mean the deeds that had been given by the Indians? After the Clapp act was passed and these Indians gave their deeds, did not the department take any steps then to try to rectify them?

Mr. MERITT. Yes, sir; the department has endeavored to straighten out that matter by means of litigation and compromise.

The CHAIRMAN. Did they bring suits?

Mr. MERITT. Yes, sir; there are over 1,600 suits.

The CHAIRMAN. How many suits were brought?

Mr. MERITT. About 1,600 suits were instituted and they have all been disposed of except two or three hundred.

The CHAIRMAN. How were they disposed of, by trial or by agreement?

Mr. MERITT. By both trial and agreement.

The CHAIRMAN. How many were disposed of by trial?

Mr. MERITT. I could not tell you, offhand.

The CHAIRMAN. In those cases disposed of by trial was the status or blood of the Indians fixed by the court?

Mr. MERITT. It was established that the Indian was either a mixed blood or full blood.

The CHAIRMAN. That was established?

Mr. MERITT. Yes, sir.

The CHAIRMAN. What did the court hold that it took to constitute mixed blood?

Mr. MERITT. Any Indian possessing any degree of blood other than Indian blood.

The CHAIRMAN. And the Indian that had one sixty-fourth white blood was mixed blood?

Mr. MERITT. He would be considered a mixed blood, under the decisions of the courts.

The CHAIRMAN. Your roll that you are having made up now, that your commission is making, will give, of course, due deference to these decisions of the courts, will it not?

Mr. MERITT. Yes, sir. Over 4,000 Indians have had their status definitely fixed.

The CHAIRMAN. How many Indians are there in the White Earth Reservation?

Mr. MERITT. There are about 6,000 altogether.

The CHAIRMAN. What is their degree? I think you have answered that question a good many times before the committee, Mr. Meritt, but what is their degree of competency?

Mr. MERITT. I think that a large per cent of the adult mixed-blood Indians of the White Earth Reservation are competent.

The CHAIRMAN. Of course, those not adults would not be competent, and would not be so held by the courts of the United States, or of the State in which the reservation is located, but you think that most of the mixed-blood Indians, those classed as mixed blood, are competent?

Mr. MERITT. Yes, sir; they are competent to this degree: They are competent to make their own living, to make their own way in the world. They are not as competent as some white men in disposing of their property, because they are more or less improvident, but they are competent to the extent that they should not be under the jurisdiction of the Indian Office.

The CHAIRMAN. You mean some of them are not as competent as white people?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Are not some of them more competent than some white people?

Mr. MERITT. Well, we have some Chippewa Indians in this room who are as competent to transact their business as the majority of the white men.

The CHAIRMAN. How do they compare with the Five Civilized Tribes, as a whole?

Mr. MERITT. I would say that the Chippewa Indians are not as far advanced as the Indians of the Five Civilized Tribes.

Mr. HAYDEN. Mr. Beaulieu, you made the statement that you estimated 1,183 as the number of incompetent Indians. We have taken testimony of the Indian Office to the effect that they can not tell at this moment how many of the Chippewas are competent or incompetent, although they have admitted that a large number of them are, but that a roll is being prepared which within a year will be completed, which will show the quantum of Indian blood, and can be used as a basis of determining accurately the competency or incompetency of your Indians. You may proceed with your statement.

Mr. BEAULIEU. I do not think it is necessary to read the rest of this. I just want to make a comparison here.

Comparison of expenditures for support and civilization of Chippewas in Minnesota with appropriations for support and civilization of other Indians shows expenditures among Chippewas to be many times the amount per capita expended on the other Indians.—A comparison of the expenditures for the alleged support and civilization of the 11,839 members of the Chippewa Tribe, only about 1,183 of whom are incompetent and therefore need any support and civilization at the hands of the Indian Bureau, with the expenditures made for the support and civilization of other Indian tribes will illustrate the wasteful expenditures being made among the Chippewas.

(a) Turtle Mountain Band, North Dakota: For the support and civilization of the Turtle Mountain Band of Chippewas in North Dakota, including pay of employees, there was appropriated in the Indian appropriation bill approved May 25, 1918, the sum of \$13,000. There are, according to the annual report of the Commission of Indian Affairs for the fiscal year ending June 30, 1918 (p. 92), 3,298 members of this band. There is substantially no difference between the condition of the Turtle Mountain Band of Chippewa Indians in North Dakota and the Chippewa Indians in Minnesota. Why it should cost less than \$4 per head per annum for the support and civilization of the Chippewa Indians in North Dakota and more than \$65 per head for the support and civilization of the Chippewa Indians in Minnesota, 90 per cent of whom are competent Indians, we are at a loss to understand.

Mr. HAYDEN. You say that there was \$13,000 appropriated for the Chippewa Indians in North Dakota, at \$4 per head, and that \$65 per head was appropriated for the Minnesota Indians. In that \$65 you have almost half of it as per capita payments. Then, you take the per capita payments out, which reduces it to some four hundred and odd thousand dollars. Now, the Chippewas of North Dakota have no money from which to make a per capita payment, so that the comparison is unfair.

Mr. BEAULIEU. Outside of the per capita payment it amounts to \$40 per capita instead of \$65.

Mr. HAYDEN. But you are including the per capita payment in your comparison.

Mr. BEAULIEU. We are just taking all these figures, because the bureau always says for the support and civilization of these people—lump sums.

Mr. HAYDEN. But I understand the per capita payment—

Mr. BEAULIEU. I suppose it is just as much support to give them \$18 a year as to maintain those schools, as far as I am concerned, because that is all I ever get.

Mr. HAYDEN. Are you objecting to the per capita payments?

Mr. BEAULIEU. No; I am not.

Mr. HAYDEN. You object to including it in that \$65. How much is the per capita payment?

Mr. BEAULIEU. \$18 a head.

Mr. HAYDEN. Furthermore, I want to point out that in this \$65 you include each item credited from the general appropriations for Indian schools, Indian police, and so on. You do not include that in the \$4 allowed for the Chippewas of North Dakota. You simply take the \$13,000 gratuity appropriation, and do not account for other conditions. As a matter of fact, the appropriation for the North Dakota Chippewas is much more than \$4 per capita, and, as a matter of fact, deducting your per capita payments, the amount expended for each Minnesota Chippewa was—

Mr. BEAULIEU. \$40.

Mr. HAYDEN. And much less than that if you count out certain other expenditures that are included in the last appropriation act; for instance, the \$10,000 for your general council, and other like items.

Mr. SNYDER. Why do you not confine yourself now in the few minutes you have got left to telling us why you do not want this \$160,000 appropriated? Can you tell us any particular expense that this \$160,000 contemplates that can be dispensed with?

Mr. TILLMAN. I think he contends that the money is squandered or badly used. I want to hear about that.

Mr. BEAULIEU. I do not contend it is squandered. I contend it is inefficiently used. For instance, I might illustrate this. I want to point out a very particular place where it ought to be abolished.

Mr. SNYDER. If you will point out just two or three it will be very helpful.

Mr. BEAULIEU. For instance, the mixed bloods up there who have been recognized by Congress as competent were paid a per capita payment from this general fund of \$130. They conceived the plan at the agency there to withhold the payment, and in doing so they classed a great number of these adult mixed bloods as incompetent, because they were known to have taken a drink of whisky sometime, or something of that kind. They paid this money to these people in \$5 and \$10 amounts. It takes from about 12 to 15 months to finally pay up one man's account, keeping two or three clerks busy making these checks out. That is costing these people money that might have been dispensed with by paying it all over at one time.

Mr. HAYDEN. You do not want this particular appropriation of \$160,000 made out of your funds; if that appropriation is not made, what will happen in Minnesota?

Mr. BEAULIEU. They will have to do away with a lot of their clerical help, clerical force.

Mr. HAYDEN. Will it, in your opinion, close any school?

Mr. BEAULIEU. I think the schools could be run, as Mr. Meritt stated, from the general appropriation in the bill, and also the per capita money, which amounts to probably \$75,000 or \$76,000, which does not have to be appropriated.

Mr. HAYDEN. Then you want the schools maintained, but you think they can be maintained from other funds. You are not asking that this appropriation be made out of the Treasury?

Mr. BEAULIEU. No, sir; on the White Earth Reservation, which is the most populous reservation, we have possibly 60 schools that are maintained by the State and county. We pay our taxes up there, and we send our children to these public schools, and these public schools are available to all the Indians on the White Earth Reservation, with probably the exception of, maybe, 50 or 75 students.

The CHAIRMAN. Do all mixed-blood Indians pay taxes on their allotments?

Mr. BEAULIEU. All adult mixed bloods pay taxes on their allotments.

Mr. TILLMAN. Your idea is that the cost of this administration is more than it is worth?

Mr. BEAULIEU. The cost of the administration is more than it is worth.

The CHAIRMAN. Is there any part of this \$160,000 that you think ought to be retained?

Mr. BEAULEAU. I want to state frankly that we object, of course, to every dollar of this money. We can not give our consent. As I say, we feel that as a legal proposition there is no authority, and if we can not get relief soon we anticipate bringing legal action, and therefore we can not give our consent to the expenditure of a dollar, and if Congress insists upon it, and the Indian Office, we expect to try some other way.

Mr. NORTON. This, then, is your position: You are opposed to paying out of the Chippewa fund any money for the administration of Indian affairs on your reservation; is that so?

Mr. BEAULIEU. Which we believe is contrary to the treaty and understandings.

Mr. NORTON. You are also opposed to paying out of the Chippewa Indian fund any money for the maintenance and support of the schools there?

Mr. BEAULIEU. Of the permanent funds.

Mr. NORTON. Of the permanent funds?

Mr. BEAULIEU. Yes, sir.

Mr. NORTON. Well, are you in favor of paying it out of any other fund of the Chippewa Indians?

Mr. BEAULIEU. There is \$75,000 which may be appropriated by treaty stipulation, the interest from the permanent fund, which is used without specific authority from Congress.

Mr. NORTON. It is used without specific authority of Congress?

Mr. BEAULIEU. Yes, sir.

Mr. NORTON. Is that amount, Mr. Meritt, used each year now?

Mr. MERITT. Yes, sir.

Mr. NORTON. Is that included in that \$108,000 item here on page 418?

Mr. MERITT. That is included in our general statement as to the expenditure of Chippewa funds.

Mr. NORTON. How much was appropriated last year for the fiscal year ending June 30, 1918, out of the Chippewa fund? Was it not \$165,000?

Mr. MERITT. \$175,000.

Mr. NORTON. You have used \$164,613, according to the statement on page 418?

Mr. MERITT. Yes, sir.

Mr. NORTON. Where is the statement as to how you used this \$75,000 out of the interest fund?

Mr. MERITT. That statement appears on page 410, under the heading, "Interest on Chippewa in Minnesota Fund."

Mr. HASTINGS. I want to call the attention of the committee to the fact that I thought all this money that is not specifically appropriated in this Indian appropriation bill was shown in this last section of this bill.

Mr. HAYDEN. No; the appropriation from tribal funds in the last section of the bill reads as follows:

That in addition to the Indian tribal and treaty funds, the expenditure of which is specifically authorized elsewhere in this act, and such sums as may be required for equalization of allotments, education of Indian children, per capita and other payments to Indians, and expenditures for the Five Civilized Tribes, in accordance with existing laws, the Secretary of the Interior be, and he is hereby, authorized to expend not exceeding \$2,325,000 from funds held by the United States in trust for the respective tribes, for support and civilization of the Indians under the jurisdiction of the following agencies, to wit:

It is clear that under this authority the Indian Office can educate Indian children without going to Congress for a specific appropriation.

Mr. MERITT. The schools are specifically excluded by that provision of law.

Mr. HASTINGS. Yes; I see.

Mr. HAYDEN. So that that specific appropriation is not made there.

Mr. MERITT. We, of course, have authority of Congress for the use of this money, and that authority is found in section 7 of the act of January 14, 1889 (25 Stat., p. 645).

Mr. HASTINGS. Is there anything further, Mr. Beaulieu?

Mr. BEAULIEU. In conclusion, I just want to say that years ago when our people were all incompetent up there, we had two or three employees that looked after all those Indians, and it did not cost us probably to exceed \$50,000. Now that our people have become amalgamated with the whites and have gone to these schools, the Government, taking hold of them, for the last 30 years has gone ahead and increased this appropriation year after year, when we are supposed to be becoming more civilized, and if this thing is going to keep on, there is no telling where it will stop, and I want to say that under this agreement, if you take from this permanent fund, you are going to decrease the interest right along, and if this appropriation goes on for the next ten or twelve years, we will not have any principal left. The Indian Bureau is going to wake up some day with no more money at hand, and I think it is time to cut this thing down. I think they might use this money more judiciously.

Mr. HAYDEN. The Indian Office, in the hearings, does not show that they are encroaching on your principal at all. In its justification it says:

The amount of said principal sum on June 30, 1918, was approximately \$5,804,939, 5 per cent of which would be \$290,246.95, whereas the appropriation asked for is only \$180,000, or \$130,246.95 less than the maximum amount which could be appropriated under the law.

That is according to the justification of Mr. Meritt. They have authority to appropriate, under the law, 5 per cent of this amount, which would be \$290,000 a year?

Mr. BEAULIEU. Yes. Here is the legal proposition. In explaining that to the Indians the commissioner stated that in no event would we encroach upon this permanent fund unless in case of unforeseen misfortune, such as the failure of crops.

Mr. HAYDEN. Do you contend that there is such a provision in some treaty between the United States and the Chippewa Indians?

Mr. BEAULIEU. Yes; it is in the House Executive document. I can not find it. There is a lot of stuff here in the negotiations. I would like to have a chance to find that paragraph and read it.

Mr. HASTINGS. Let me say to you that so far as one member of this committee is concerned, that would be very, very persuasive upon me, and I would be glad for you to pick out that language, because the Supreme Court of the United States and other courts have time after time for the last 40, 50, 60, 75, or 100 years, decided that so far as interpreting Indian treaties is concerned, it is how those Indians understood the treaty at the time it was made; and we have the right to take into consideration the representations that were made by the representatives of the department to the Indians at the time the treaty was made, and I will state to you that that will be very, very persuasive upon me if you pick that out. If you are going to expect the members of this committee to go through that statement and find that, you are going to be disappointed, because we are not going to have the time, perhaps, to do that, and I have suggested to you, and I suggest again to you, that it is a part of your business to hunt that up and bring it to our attention here so that we can see the exact language relied upon.

Mr. HAYDEN. In that connection, in view of the statement I have just read, I think it would be only fair to the Indian Office to allow them to submit a contrary view about the matter. Have you ever had prepared any legal opinion as to the right of Congress to appropriate this money, Mr. Merritt?

Mr. MERRITT. We have decided views, and I think we can quote the laws and the decisions of the courts sustaining what we have done.

I might say that only recently the Supreme Court has rendered a decision as to the use of certain Chippewa funds, and that decision was favorable to the view taken by the Indian Bureau, and does not sustain the view of certain Indians.

Mr. HAYDEN. From Mr. Beaulieu I gather, and I want to know if I am correct, that he declined to discuss the question of whether any part of this money can be used advantageously or not, for the reason that the general council of the Chippewa Tribe, which he represents, contends that unless the appropriation is stopped they propose to file a suit for the recovery of the money heretofore spent, alleging it was improperly spent. For that reason he declined to discuss the question as to whether any part of this money can be used advantageously. You simply say for the record that you do not want any of this money used at all?

Mr. BEAULIEU. Yes.

Mr. HAYDEN. Then the issue is clearly drawn between the Indian Office and yourself, you saying the treaty does not authorize its use, and the Indian Office saying that it does. If you are going to put into the record your interpretation of the treaty, would it not also be wise to have the Indian Office put in their contention?

Mr. MERITT. We will do that, Mr. Chairman, and we will also be glad to make a statement showing the fallacy of the figures submitted here. It is apparent that these figures are not based upon facts, and it is perfectly easy to demonstrate that.

Mr. HAYDEN. Inasmuch as Mr. Beaulieu is going to print his written statement, it would be proper also to let Mr. Meritt print a reply.

Mr. TILLMAN. Now, your last statement, Mr. Beaulieu, is very convincing, or I might say it is very plausible; that is to say, you claim that a few years ago only a small amount of money was required to be appropriated for the civilization and education of the Indian. Now you say that a great deal of money is required to civilize them and educate them. I say that may be a very plausible statement if it is a truthful one. But is it not true that while a great deal more money is being spent now the Indians are getting a great deal more out of it than they got out of it in the old days? Won't you be fair enough to make that statement, and is not that statement true?

Mr. BEAULIEU. Yes; it is.

Mr. TILLMAN. In other words, you are not a reactionary; you are a progressive, and you believe your people ought to have the very best in the way of education, and the very best in the way of attention, medical and otherwise; and do you not admit that, although much more is being spent now than was spent formerly, the Indians are getting much more out of what is being spent than they did formerly?

Mr. BEAULIEU. A few of the Indians who partake of these benefits do.

Mr. TILLMAN. Is it not the fault of those who do not partake that they will not partake?

Mr. BEAULIEU. Those who partake should pay the price. For instance, I would not send a child of mine to the Government Indian school. Nobody that cares to educate a child would want to send him to a Government school such as we have on the White Earth Reservation.

Mr. MERITT. May I ask Mr. Beaulieu a question there? Mr. Beaulieu, were you not educated at the Government schools out of the funds of the Chippewa Indians?

Mr. BEAULIEU. My preliminary education was had in the Catholic Mission at St. Benedict's School, which was a fine school. The Indian Office had nothing to do with it. They paid them, I think, \$90 per head for the children that were put in that school. I went from there to Pipestone, Minn. I practically wasted two years there. I was put back in my grades. I left there and went to Haskell Institute at Lawrence, Kans., and, on account of sickness, I could not stand the climate and had to come back to Minnesota, so that is the only experience I have had in the Indian schools. From there I went to the public schools, to the University of Minnesota. I will answer Mr. Meritt's question. The Government appropriated for several years, I think, \$5,000 or \$10,000 for the higher education of certain Indian children who had reached a certain degree of education, those who had completed the high-school course, in order to enable them to go to college. Everyone of them that took advantage of that, and a number of others, as I am glad to say, are all successful men. There is Dr. Davis that has a profession, and the others are men that have made good with this money, everyone of them.

Mr. MERITT. Mr. Chairman, the reason I asked that question was to bring out the thought that here is Mr. Beaulieu appearing before the committee, who has received his education out of the funds of the Chippewa Indians, and is now protesting to this committee against the further appropriation of Chippewa funds so that other Indians now growing up will not receive the benefits that he has received.

Mr. BEAULIEU. I want to state right here to this committee——

Mr. HASTINGS. As I understand it, Mr. Beaulieu is not objecting to the fund being used for the schools?

Mr. BEAULIEU. No; I am not.

Mr. HASTINGS. But you are objecting to the \$160,000 being used for other purposes, for administrative purposes. Now, Mr. Meritt, is a part of the \$160,000 being used for the schools?

Mr. MERITT. Yes, sir; a part of the \$160,000 is being used for the schools.

Mr. HASTINGS. About how much?

Mr. MERITT. We are maintaining a number of agencies in the Chippewa country, among which is the White Earth. Under each one of those superintendencies there is a system of schools, and we maintain that agency organization out of this appropriation of \$160,000 that we are now requesting, and with that appropriation wiped off the statute books we would be absolutely powerless to continue that organization in the Chippewa country, and the Chippewa Indians themselves would be the first people who would suffer as the result of the discontinuance of this appropriation.

Mr. HASTINGS. Very well. You are maintaining the agency organization out of the \$160,000, but the schools proper are paid for out of the other fund?

Mr. MERITT. But the people——

Mr. HASTINGS. Is that a correct statement?

Mr. MERITT. The schools are being maintained out of the other funds, but the supervision of those schools comes under the direction of the men who receive their salaries out of this appropriation of \$160,000.

Mr. HASTINGS. In charge of the agency?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. In charge of the various agencies?

Mr. MERITT. And the statement that there are about only 1,100 Indians who are incompetent in the Chippewa country is clearly misleading, for the fact that there are now within the Chippewa country about 11,000 Indians, and more than 6,000 of those Indians are minors, and it must be admitted that all minors are incompetent; and I would say that the majority of the adult Indians outside of the White Earth Reservation are within the incompetent class.

The CHAIRMAN. Mr. Meritt, is it your contention that because there was the necessity of keeping up Indian schools some 15 or 20 years ago on the White Earth Reservation that the same condition might still exist on that reservation?

Mr. MERITT. I would say that the necessity for Indian education is greater to-day than it was 15 or 20 years ago.

The CHAIRMAN. Is greater?

Mr. MERITT. Yes, sir; the necessity is greater, and it also costs a great deal more.

The CHAIRMAN. Yes, the cost; but why is the necessity for education greater now than before?

Mr. MERITT. For this reason: Twenty-five years ago the Indians were educated on a reservation where the lands were held in common and the property rights of those Indians were secure, but now the reservations have practically all been allotted; each Indian has received his allotment and is now receiving his pro rata share of tribal funds, and if he is not competent to handle those funds and his property, and if the jurisdiction of the department is removed, he will soon be a pauper.

The CHAIRMAN. Are not the facilities for the education of the Indians in the white man's schools greater now than they were 15 or 20 years ago?

Mr. MERITT. Yes, sir; because 15 or 20 years ago there were practically no public schools in existence in the Indian country. To-day we have over 30,000 Indians in the public schools in this country, and as we take these Indians into the Indian schools we are gradually working them into the public schools, and it is the policy of the Indian Bureau to get as many of these Indian children in the public schools as we can find facilities for them.

The CHAIRMAN. You do not want to go on record as entertaining the view that because it was necessary to maintain Indian schools some 25 or 30 years ago on the reservation that the same pressing necessity exists to-day on all reservations?

Mr. MERITT. The same necessity does not exist on certain reservations where the public-school facilities are available, and on those reservations we are now getting the Indian children in the public schools.

Mr. HAYDEN. Are you paying anything out of this Indian fund to the public schools in Minnesota?

Mr. MERITT. We pay nothing out of Indian funds to the public schools in Minnesota but some public money is used for this purpose.

The CHAIRMAN. This thought just occurred to me. Mr. Hastings, the chairman, and myself have received practically all the little education we had at Indian schools, but I do not think any one of the three of us would now agree that there is very much necessity for the continuation of all the schools that were kept up then for the Indians, because the State of Oklahoma has been organized, and you have the public schools throughout the reservations, and practically all, or the large majority, or rather, perhaps, 90 per cent of the Indians of the Five Civilized Tribes now attend the public schools.

Mr. SNYDER. I understood Mr. Beaulieu to say that there were only about 75 or 80 children up there who could not be readily provided for in the regular State schools.

Mr. MERITT. That statement is incorrect.

Mr. SNYDER. On the White Earth Reservation; is that correct?

Mr. BEAULIEU. Yes, sir. I took this matter up at one time, and I am on the board of the State school there, and we have figured that under our laws we have the right to go out within the radius of 6 miles and get children in the public schools.

Mr. SNYDER. I understand Mr. Beaulieu further to agree that due to that fact there is no necessity to continue this very large departmental expense for the purpose of taking care of those 75 that might

be eventually inducted into the regular schools up there, and I understand him further to say that in view of the fact that so many of the Indians have now been civilized, that they are anxious to carry on that work themselves in their own way and under their own expense as taxpayers of the State. Am I correct in that, Mr. Beaulieu?

Mr. BEAULIEU. Yes, sir; that is our idea. I just want to go a little bit further. In the Government boarding schools they attend school about two and one-half hours a day. They go to school until they finish the sixth grade, I think, up there, or the seventh grade, and going to school two hours and one-half a day is not quite half the time that we give our children in the public schools. The consequence is that they are around 18 or 20 years when they finish their sixth or seventh grade education at the Government boarding school, and they stop going to school because they are ashamed to go to the public school with these little fellows around 12 and 13 years of age. That is the condition we have of these young men who are going to these schools up there. They stop going to school.

Mr. HAYDEN. You say there are ample facilities in the public schools of Minnesota to take care of all the Indian children, without maintaining any Indian schools at all?

Mr. BEAULIEU. Ample facilities can be provided under our laws.

Mr. SNYDER. You are willing to take the chance?

Mr. BEAULIEU. We are willing to take the chance; yes, sir.

Mr. SNYDER. You are representing a large number of the Minnesota Indians that are interested in this proposition?

Mr. BEAULIEU. Yes, sir.

Mr. SNYDER. How large a per cent do you claim to represent?

Mr. BEAULIEU. At the White Earth, where I live?

Mr. SNYDER. I am speaking of the White Earth. How large a per cent of the White Earth band do you claim to represent in making that statement?

Mr. BEAULIEU. I and my associates would probably represent 90 per cent.

Mr. MERITT. In order to get the other side of this picture, gentlemen of the committee, I would ask that Mr. Coffey, who heads the other délégation and who denies that these Indians here represent any considerable portion of the Chippewa Indians, be given an opportunity to be heard.

Mr. SNYDER. I want to know if I can get you to agree on a proposition here in the form of a statement that no one can get away from.

Mr. BEAULIEU. Referring to what Mr. Hastings asked about. I was able to find the statement as to the interpretation of the act of 1889 wherein it is stated that Congress may from time to time appropriate not exceeding 5 per cent of the permanent funds. In explaining that to the Indians Mr. Rice, who was speaking, among other things stated:

At the end of 50 years the principal is to be divided only among those who shall be living, to provide for the breaking of land, the building of houses, the purchasing of cattle and horses, and everything of that kind that you may need for your advancement. There is a clause providing that Congress may, in its discretion, from time to time, during said 50 years, appropriate for the purpose of promoting civilization and self-support among the Indians, a portion of said principal sum not exceeding 5 per cent thereof. In the case of failure of crops, or any unforeseen misfortune, here is a storehouse of money to be drawn upon for your wants.

The CHAIRMAN. When was this treaty made?

Mr. BEAULIEU. In 1889.

Mr. HAYDEN. That statement by Mr. Rice, the Indian agent, was made after Congress passed the act?

Mr. BEAULIEU. The act was passed, of course, first; and then it was brought to the Indians to ratify it. That is when the statement was made.

Mr. HASTINGS. When the Indians ratified it—

Mr. BEAULIEU. This was the understanding of what it meant.

The CHAIRMAN. When the Indians were called upon to ratify it?

Mr. BEAULIEU. Yes; this was the explanation to the Indians of what it meant.

Mr. STEENERSON. The act provided that it should take effect when it was ratified, so it was really a treaty as well as an act.

Mr. CHANDLER. In order to clear up my own mind, Mr. Meritt, the question has arisen here as to where this \$160,000 comes from. Is this a part of the principal of this fund?

Mr. MERITT. It is a part of the principal of the fund of the Chipewewa Indians in the Treasury of the United States. They now have in the Treasury of the United States more than \$6,000,000.

Mr. CHANDLER. The reason I am asking the question is that Mr. Hayden and I spoke about it probably coming from somewhere else. I was not clear on the question myself, and I wanted to find out whether this came from the principal fund or not.

Mr. MERITT. We have authority, under legislation by Congress, to ask Congress for an appropriation not exceeding 5 per cent of the principal fund, and we have kept within that fund.

Mr. CHANDLER. That is under the treaty of 1889?

Mr. MERITT. The act of January 14, 1889.

(The unread portion of Mr. Beaulieu's statement is as follows:)

(b) Sioux of Devils Lake, N. Dak.: For the support and civilization of the Sioux of Devils Lake, N. Dak., including pay of employees, there was appropriated by the Indian appropriation bill, approved May 25, 1918, \$5,000. There are 883 members of the Sioux Band of Devils Lake, and thus the appropriation for these Indians was a little over \$5 per head.

(c) Indians, Fort Berthold Agency, N. Dak.: For the support and civilization of Indians at Fort Berthold Agency, in North Dakota, including pay of employees, there was appropriated in the Indian appropriation bill, approved May 25, 1918, \$13,000. The Annual Report of the Commissioner of Indian Affairs (p. 92) shows that there are 1,204 Indians under that agency, and thus the total expenditures for the support and civilization of the Indians of that agency is a little over \$12 per head per annum.

(d) Montana Indians: The Indian appropriation bill, approved May 25, 1918, contained the following appropriations for the following tribes in Montana, the population of each tribe given below being taken from the last annual report of the Commissioner of Indian Affairs:

Agency.	Popu- lation.	Appro- priation.
Indians at Fort Belknap Agency.....	1,208	\$20,000
Indians at Flathead Agency.....	2,426	20,000
Indians at Fort Peck Agency.....	2,039	30,000
Indians at Blackfeet Agency.....	2,773	50,000

The appropriations for the support and civilization of the various Indians in the several States is from \$2.50 to a little over \$20 per capita per annum. The

Indians receiving in excess of \$10 per capita per annum are reservation Indians. All the Chippewa reservations in Minnesota, except the White Earth and Red Lake Reservations, were abolished by the act of January 14, 1889, which two were reserved for allotment purposes. All the allotments, except those on the Red Lake Reservation, where 1,496 Indians are enrolled, were made years ago, so that the Chippewa Indians can not properly be classed with the reservation Indians; and yet it is costing about three times as much per head per annum for the support and civilization of the Chippewas of Minnesota, 90 per cent of whom are competent, as it costs to support and civilize the incompetent reservation Indian.

5. *The Indian Office will not disclose where and how these vast sums are being expended, and all the Indians know is that the money is being wasted.*—For years the committee of Congress labored under the belief that the appropriation carried in every Indian appropriation bill of from \$160,000 to \$185,000 out of the trust funds of the Chippewa Indians was all the money that was being expended. It was not until a suit was filed in the court by direction of the general council that the Indian Bureau, realizing that further refusal to disclose the facts would result in a subpoena duces tecum being issued, that it disclosed the records which showed that the appropriation of from \$160,000 to \$185,000 per annum from the trust funds was only a small part of the money being annually expended. As a result of that disclosure, the subcommittee having charge of the Indian appropriation bill called upon the assistant commissioner (hearings, p. 411) for a complete statement showing all the moneys expended for the alleged support and civilization of the Chippewa Indians during the last fiscal year. The report appearing in the hearings (pp. 410–18) is the first time in the 29 years these expenditures have been going on that a complete statement was submitted.

How the \$429,500.67 now being expended for administrative, educational, and supervisory purposes is in fact expended, no one knows, and no one can find out. Last spring the House, when the bill was under consideration, struck from the Indian appropriation bill an item similar to the one we are now objecting to. It was reinstated by the Senate upon the assurance of the Commissioner of Indian Affairs and the secretary that before further similar appropriations were asked by the department a full, fair, and complete investigation of the affairs of the Chippewas would be made, with the object in view of eliminating or greatly reducing similar appropriations in the future. Upon this understanding the appropriation was allowed last year. After the bill containing the appropriation became a law, a resolution was introduced in the House authorizing an investigation by the House Committee on Indian Affairs or a subcommittee thereof. Commissioner Sells personally appeared before the House Committee on Rules and made a personal appeal to the committee to either refuse to report the resolution or to report it adversely. In this he was successful, and he thus prevented an investigation by the only disinterested authority in position to make an impartial and thorough investigation. Thereafter the Indian Bureau, against whose employees in Minnesota the legislative committee of the Chippewa General Council had filed specific charges, designated E. B. Linnen to make the investigation. The Chippewa Indians knew Linnen and had no confidence in any investigation he might conduct. They protested to the commissioner and secretary against the appointment, but without avail. The investigation which he pretended to conduct confirmed our then belief. It was not an impartial and thorough investigation, or calculated to bring to light and lay bare the true facts. His report is contradictory and incomplete. In his report (hearings, p. 439) he says, with reference to the charges we filed:

“The members of the legislative committee of the Chippewa General Council filed complaints and charges with the Indian Office and with Assistant Secretary of the Interior Hopkins, making many extravagant and unwarranted accusations which are not borne out by the facts. In fact, scarcely a single one of the charges are found to be true, as hereinafter shown.”

Notwithstanding this sweeping denial of our charges he recommends (hearings, pp. 471–472) 36 removals and changes in the personnel of the service, including the removal of the superintendent of the White Earth Agency; the abolishment of three agencies; and other sweeping changes, nearly all of which the legislative committee in its complaints filed insisted should be done for the good of the service.

With reference to the immoral conditions existing at the White Earth Boarding School, we call attention to his report, commencing with the last

paragraph, on page 509, and extending to the end of the second paragraph, on page 510. It will be noted that he denies the charges we made in this particular case, and yet sets up a state of facts that completely prove our allegations. The report admits that the charges made with reference to the general conditions existing at the boarding school at White Earth (hearings, p. 519) were true, and that the conditions were deplorable.

This report throws no light, however, upon the expenditure of a single dollar of the \$429,500.67 expended last year for administrative purposes, and, therefore, can not be used as a basis for a further appropriation this year.

6. *The appropriation of \$160,000 is not necessary and if made will be wasted.*—The appropriation of \$160,000 asked by the Indian Bureau out of our trust funds is not necessary and should be discontinued. Its discontinuance would still leave about \$270,000 for administrative purposes, which is more than enough. Its discontinuance will not interfere with the school service in any way. This is provided for by the use of one-fourth of the interest arising annually from the principal fund, and which one-fourth amounts annually to more than \$75,000. This is available under the act of January 14, 1889, without appropriation by Congress. The appropriations from our trust funds for administrative purposes should cease. With these vast appropriations we are being supervised to death to the actual detriment of our people,

JOHN W. CARL,
FRANK D. BEAULIEU,
B. L. FAIRBANKS,
JNO. ARTEN,

Legislative Committee Chippewa General Council.

Mr. BEAULIEU. As authorized by the committee, I now present a succinct statement of the law and decisions of the courts, with reference to the use of any part of our principal fund for our alleged support and civilization, as authorized by the proviso to section 7 of the act of January 14, 1889:

Prior to 1889 the United States dealt with the various bands of the great Chippewa Tribe of Indians by treaty or otherwise as separate and distinct bands. Many of the promises made by the United States in its treaties with the separate bands had been ignored, disregarded, or broken, and in 1889 remained unfulfilled. In that year the Congress of the United States passed a law commonly known as the Nelson Act, approved January 14, 1889 (25 Stat., 642).

The object and purpose of the act of 1889 was to bring all the various bands or tribes located in Minnesota together and deal with them as one tribe; to compose the differences existing between said bands over the ownership of the lands to be ceded and to be allotted, and the differences existing between said tribes or bands and the United States relating thereto; and to dismember the consolidated tribe and distribute the tribal property among the individual members and their issue share and share alike. To effectuate this purpose Congress dealt with the Indians by agreement, and not in the exercise of its plenary power over their property. In contradistinction to the manner in which it dealt with the Kiowas, Comanches, and Apaches (*Lone Wolf v. Hitchcock*, 187 U. S., 553, 564, 568), and with the Cherokees (*Cherokee Nation v. Hitchcock*, 187 U. S., 294, 307, 445, 448), as held by the Supreme Court of the United States in *United States v. Mille-Lac Chippewas* (229 U. S., 458, 509-510).

Section 1 of the act of 1889 authorized the President of the United States, through a commission to be appointed by him "to negotiate with all the different bands or tribes of the Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as, in the judgment of said commission, is not required to make and fill the allotments required by this and existing acts, and shall have not been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated."

The same section then prescribed the manner in which the assent of the Indians to the taking of allotments and the cession of the residue of their lands to the Government should be ascertained and determined. Sections 1 and 3 made provision for allotments of land in severalty to each and every member of the consolidated tribe. Sections 4, 5, and 6 made provisions for the survey

of the lands and the disposition of the timber thereon, as well as the lands ceded, which latter amounted in the aggregate to nearly 7,000,000 acres. Section 7 provided that all money accruing from the disposal of the ceded lands and timber should, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, "be placed in the Treasury of the United States to the credit of the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of 5 per cent per annum, payable annually for the period of 50 years, after the allotments provided for in said act have been made, and which interest and permanent fund should be expended for the benefit of the Indians in manner following." Then followed express provisions for the distribution of the interest money and the final disposition of the principal fund.

The members of the separate bands residing in Minnesota at first refused to negotiate with the commissioners appointed by the President under the act of January 14, 1889, for the stated reason that the United States had not lived up to its treaty agreements, and while those agreements remained unfulfilled the Indians declined to have further dealings with the United States.

Upon the solemn assurance of the commissioners representing the United States that if the Chippewa Indians would enter into an agreement with the United States in accordance with the terms and provisions of the act of January 14, 1889, the United States would faithfully and honestly discharge its duties and obligations thereunder and would make restitution for its failure to carry out its previous treaty agreements, the Chippewa Indians reluctantly ratified the act of 1889, consented to the allotments to be made thereunder, and ceded to the United States in trust their excess lands and timber thereon. This is referred to in the message of President Harrison to the Senate of the United States, dated March 4, 1890 (H. R. Ex. Doc. 247, 51st Cong., 1st sess.), accompanying which message the President transmitted the record of the negotiations and cessions, and in which message (p. 1) President Harrison says:

"The commissioners did not escape the embarrassment which unfortunately too often attends our negotiations with the Indians, viz, an indisposition to treat with the Government for further concessions while its obligations incurred under former agreements are unkept. I am sure it will be the disposition of Congress to consider promptly, and in a just and friendly spirit, the claims presented by these Indians through our commissioners, which have been formulated in the draft of a bill prepared by the Secretary of the Interior and submitted herewith."

The draft of the bill transmitted by President Harrison, appearing on pages 12 and 13 of the same document, was never enacted into law, and the broken treaty promises then recognized by the United States to-day remain unfulfilled, notwithstanding 28 years have come and gone.

Placing reliance and confidence in the representations of the commissioners, the Chippewa Indians ratified said act and consented to the allotment of a part of the land in severalty and the cession of the remaining, about 7,000,000 acres, to the United States in trust, to be sold and disposed of as provided by section 7 of said act.

Section 7 of the act of 1889 contained this provision:

"*Provided*, That Congress may, in its discretion, from time to time during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof."

The commissioners, when negotiating with the Chippewa Indians for the cessions of land under the act of 1889, construed, interpreted, and explained this provision to mean that Congress would only encroach upon this principal sum in the event of "failure of crops or any other unforeseen misfortune" (H. R. Ex. Doc. 247, 51st Cong., 1st sess., pp. 88, 164). The agreements of cession (Id. 38) recite that "after such explanation and understanding" the Indians consent to the cession.

In *Minnesota v. Hitchcock* (185 U. S., pp. 395-396) the rule governing the construction of this agreement and cession is stated as follows:

"The language used in treaties with the Indians should never be construed to their prejudice. * * * How the words of the treaty were understood by this unlettered people, rather than their critical meanings, should form the rule of construction. * * * The recognized relation between the parties to this controversy, therefore, is that between a superior and an inferior, whereby the latter is placed under the care and control of the former,

and which while it authorizes the adoption on the part of the United States of such policy as their own public interests may dictate, recognizes, on the other hand, such an interpretation of their acts and promises as justice and reason demand in all cases where power is exerted by the strong over those to whom they owe care and protection. The parties are not on an equal footing, and that inequality is to be made good by the superior justice which looks only to the substance of the right, without regard to technical rules framed under a system of municipal jurisprudence, formulating the rights and obligations of private persons equally subject to the same laws."

Therefore it is the contention of our people, and we believe we are right, that the fund in question is a trust fund in the control of the United States to the credit of the Chippewa Indians of Minnesota, and any expenditure therefrom must be in accordance with the provisions of the trust. The trust expressly limited the expenditure of any part of the principal sum to unforeseen contingencies that might arise. Before any part of the principal sum could be used for the special purposes indicated, express authorization of Congress is necessary, and before Congress can lawfully give that authorization it must first find that said unforeseen contingencies, such as the failure of crops, exist and that it is necessary on account thereof to make the appropriation. As no such condition exists we insist that Congress has no lawful right to make the appropriation asked by the Indian Bureau out of our trust funds this year.

STATEMENT OF MR. JAMES I. COFFEY.

Mr. COFFEY. We were here the other day and spoke to some members of the committee with reference to a hearing, and it was agreed that we should submit a statement of some of the matters for which we were down here. The statement is this:

WASHINGTON, D. C., January 8, 1919.

To the COMMITTEE ON INDIAN AFFAIRS, HOUSE OF REPRESENTATIVES

Washington, D. C.

GENTLEMEN: The Chippewa Indian delegation of Minnesota, now in the city, consisting of the legislative committee of the general council of the Chippewa Indians of Minnesota, desire to submit to your committee for consideration a statement of facts covering conditions existing in relation to tribal matters of the Chippewa Indians of Minnesota, which relate to the administration of the Government, and legislation desired by said Indians for their general progress and benefit, and which this legislative committee have been authorized by the general council of said Indians to procure from Congress.

First. That in order to obviate certain apparent conditions, which, upon arrival in this city, this legislative committee have discovered that certain individuals John W. Carl, Benjamin L. Fairbanks, Frank D. Beaulieu, and one John Arten, it is alleged are in the city representing themselves as having authority to represent the Chippewa Indians of Minnesota before Congress and the various departments of the Government.

This condition suggests to this legislative committee its duty to inform your committee and Congress the status and official relations these gentlemen have with the Chippewa Indians of Minnesota, and the general council as well, so that your committee and Congress will possess information pertinent to the claims of these gentlemen, as having authority to represent said Indians.

We, the legislative committee of the general council of the Chippewa Indians of Minnesota, therefore inform your committee and Congress, that the gentlemen above named, John W. Carl, Benjamin L. Fairbanks, Frank D. Beaulieu, and John Arten, or any person acting for them or on their behalf, or John G. Morrison, jr., or under the alleged authority of John G. Morrison, jr., to represent and to act for the Chippewa Indians of Minnesota before the Congress of the United States or any department of the Government is without authority from the Chippewa Indians of Minnesota or the general council of said Chippewa Indians.

While John G. Morrison, jr., and some of these gentlemen were last year authorized to represent the Chippewa Indians of Minnesota, each and every one of them were removed from office on April 25, 1918, by a general council of the Chippewa Indians of Minnesota upon the charge of attempting to defraud the Chippewa Indians of Minnesota, through the influence and means of the offices intrusted to them by said Chippewa Indians, in attempting to pro-

cure from Congress legislation, which was not authorized by said Chippewa Indians and which would if enacted into law, have resulted in a great loss to said Indians.

And upon the further charge that John G. Morrison, jr., while acting as the president of the general council of said Indians, certified to a resolution adopted at a local council held at White Earth, Minn., on June 12 to 14, 1915 which directed the payment from the tribal fund of said Indians the aggregate sum of \$111,000 to Gus H. Beaulieu and Ben L. Fairbanks and others, as being the act of the Chippewa Indians of Minnesota in general council.

The law which they proposed to secure from Congress is contained in the bill H. R. 8841, introduced in Congress January 17, 1918, Sixty-fifth Congress, second session. The bill contains six sections, none of which is authorized excepting that contained in section 1.

A copy of the proposed bill, H. R. 8841, is hereto appended, marked "Exhibit A."

Section 2 of said bill provides as follows:

"Sec. 2. That where any property has been taken and is now held or has been used or disposed of by the United States or its officers, including lands taken and included in forest reserves, for purposes contrary to any treaty with any band of said Indians now constituting the Chippewa Tribe of Minnesota, or contrary to the terms and provisions of the agreement entered into pursuant to the act of January fourteenth, eighteen hundred and eighty-nine, by the United States with said bands, under which they were consolidated and thereafter known as the Chippewa Tribe of Indians of Minnesota, all right, title, and interest of said tribe or bands of Indians in any such property shall cease and terminate, and so much of said property as has not been disposed of shall thereafter be held as the property of the United States, and the court shall enter judgment in favor of the Indians against the United States for the value of all such property so taken," etc.

A law such as proposed in section 2, above quoted, is not desired by the Chippewa Indians of Minnesota, and has never been authorized to be procured from Congress by the general council of said Indians. There are several reasons why such a law is not desirable:

First. The proposed law would practically create a receivership for all of the forest reserves in Minnesota in which the Chippewa Indians of Minnesota hold an equity for the value thereof; the timber upon those forest reserves is being sold and removed and the proceeds thereof deposited in the Treasury of the United States to the credit of the Chippewa Indians entitled thereto, in accordance with the treaty with said Indians and according with existing law, the proposed law would operate to take that property from administrative control of the Department of the Interior and confer jurisdiction upon the Court of Claims over it, thereby placing it in litigation, and make it necessary to employ attorneys to represent the interests of the Indians before the Court of Claims.

Second. The land involved contains at this time a vast amount of valuable merchantable timber, to be sold and removed as provided by the agreement between the United States and the Chippewa Indians of Minnesota. The timber on the land involved is estimated by citizens of Minnesota to be valued at \$16,000,000, exclusive of the land. Under the proposed law it would be necessary for the court to determine the value of the property before rendering final judgment. In that case it would be necessary to employ an army of timber cruisers to go over all of that territory and make an estimate of the value of the timber for the information of the court, which would take a long time and involve a great expense to the Indians. The inaccuracy of all such estimates alone would doubtless result in a disastrous loss to the Indians, as was proven to be the case when estimates were first taken of the timber on the Red Lake (Minn.) Reservation.

But economy and conservation of the interests of the Indians do not seem to enter into the calculation of the proponents of the law.

The alleged acts of these men are notorious among the Indians in Minnesota and in certain localities among the whites, and those acts directly reflecting the purpose to procure some such legislation as provided in section 2 of H. R. 8841 are described to be as follows:

Jan17

That at the meeting held at White Earth, Minn., commencing June 12 and ending June 14, 1915, it is alleged that Gus. H. Beaulieu, Frank D. Beaulieu,

Benjamin L. Fairbanks, E. J. Warren, Henry W. Warren, George A. Berry, William Potter, and one or two others participated in and conducted the meeting; that very few persons had any information regarding the meeting, though there were a great many people in the village; that a so-called Chippewa claims commission was created and organized by these gentlemen; that they elected themselves to the membership of this commission, viz, Benjamin L. Fairbanks, Frank D. Beaulieu, E. J. Warren, William Potter, Nay-zhe-kay-we-gah-bow, Henry W. Warren, Edward L. Rogers, George A. Berry, and John G. Morrison, jr.; then Arthur C. Beaulieu, a near relative of Frank D. Beaulieu, was delegated representative powers by these men to act for and on behalf of the Chippewa Indians of Minnesota, and was used as a dummy in that capacity, to execute a contract with the so-called Chippewa claims commission, viz, B. L. Fairbanks, Frank D. Beaulieu, E. J. Warren, George A. Barry, William Potter, Nay-zhe-kay-we-gah-bow, Henry Warren, Edward L. Rogers, John G. Morrison, jr., to prosecute the claims of all the Chippewas of Minnesota. The contract was executed by Arthur C. Beaulieu on the 8th day of January, 1916, at Detroit, Minn.

That John G. Morrison, jr., was president of the general council of the Chippewa Indians of Minnesota when he participated at the local meeting at White Earth, Minn., when he, with the others, created the claims commission and elected themselves as members to it, when they conferred upon Arthur C. Beaulieu "dummy" powers to execute the contract with himself and his confederates, and when he, with the others, accepted the contract to prosecute the claims of all of the Chippewas in the State of Minnesota. The contract stipulates a compensation of 10 per cent of the sum recovered for the Indians.

After all of the preparation had been made John G. Morrison, jr., acting as the president of the general council, appointed his confederates—Henry W. Warren, Benjamin L. Fairbanks, Frank D. Beaulieu—members of the legislative committee of the general council, and then on January 13, 1918, at the office of Webster Ballinger in this city, openly insisted upon one of the members of the legislative committee to work in harmony with Carl, Fairbanks, and Warren and endeavor to procure from Congress a law as proposed in H. R. 8841, which would have involved in litigation all of the equity of the Chippewa Indians in the forest reserves, estimated in value at \$16,000,000, which also provided for a compensation for the attorneys for the Chippewa Indians the sum of 10 per cent of the sum recovered, the same as provided in the contract with Arthur C. Beaulieu.

Calculated from the figures given as to the estimated value of the property and the compensation provided at 10 per cent, would make the compensation about \$1,600,000 for Mr. Morrison and his confederates.

Thus the inference forces itself that the motive behind all of that preparation by these men and the attempt to procure the proposed law, which was not authorized by the Chippewa Indians, was the compensation, sure to come if successful, but was not in the interest and welfare of the Chippewa Indians as a tribe.

As to the charge against John G. Morrison, jr., and Paul H. Beaulieu of certifying falsely in relation to the resolution adopted at the meeting at White Earth June 12 to 14, 1915, involving the payment to Gus H. Beaulieu and Ben. L. Fairbanks and others an aggregate sum of \$111,000 of the tribal funds of the Chippewa Indians of Minnesota.

The facts as alleged are that the meeting was held at the village of White Earth, Minn., commencing June 12, ending June 14, 1915, at the same time and place that the Chippewa claims commission and the Arthur C. Beaulieu contract was arranged for, by John G. Morrison, jr., and the same confederates; that a resolution was there adopted by these men, as follows:

* * * "Now, therefore, *Resolved*, By the Mille Lac and other Chippewas of Minnesota in general council assembled, that the said Gus H. Beaulieu shall be paid for his services as aforesaid from July 6, 1896, until December 31, 1914, at the rate of two thousand and five hundred dollars per annum, which shall be for all his services and expenses incurred by him which were not reimbursed during the said period in the prosecution of said claim, or other services, to the said Mille Lac Band and other Chippewa Indians in the State of Minnesota; and that the sum of three thousand and five hundred dollars per year shall also be paid to all other persons during the aforesaid years, and especially to Chiefs Wah we yea cumig, Ain dus o ge shig, and B. L. Fairbanks, to be divided according to their services as the executive committee and the president of the general council of Minnesota Chippewas may decide after due considera-

tion. And the said compensation shall be paid from the award in the Mille Lac suit, or from any fund of the Chippewas of Minnesota which Congress in making the appropriation therefor may deem most expedient.

THE CERTIFICATION.

I hereby certify that the foregoing resolution of the general council of the Minnesota Chippewas was passed by said council as stated in the foregoing report; that said report is correct and true and represents the wishes of the Chippewas of Minnesota as set forth by the action of their duly authorized delegates.

(Signed) JOHN G. MORRISON, JR.,
President of the General Council of the
Minnesota Chippewas. [SEAL]

(Signed) PAUL H. BEAULIEU,
Secretary.

On July 14, 1917, in the presence of the general council, Morrison admitted this certification to be false.

And it was denounced to be false and fraudulent by the general council, and constituted one of the acts for which John G. Morrison, Jr., was removed from the office of the president of the general council.

With all the evidence at hand showing such remarkable disregard of good faith and honesty in the high character of the trust reposed in Morrison, Fairbanks, and the others associated with them, no court of justice would hesitate to remove these men from office, summarily, as did the Chippewa Indians in general council on the 25th day of April, 1918.

That since the removal from office of John G. Morrison, Jr., and his confederates, they have employed every means they could make available to thwart the interests of the Chippewa Indians of Minnesota, and have undertaken to persecute certain members of the tribe instrumental in the exposure of their fraudulent operations.

That they have prepared a scheme to promote legislation by Congress, to direct the payment of \$5,000 to Ben. L. Fairbanks, from the tribal funds of the Chippewa Indians of Minnesota, on a mere say so of Ben. L. Fairbanks, that he had some years ago loaned one Gus. H. Beaulieu \$3,000. The absurdity of such a transaction is obvious, without comment.

In Minnesota, among the Indians, John G. Morrison, Jr., and the Fairbanks and Beaulieu and others of their immediate relatives and friends, have been, for years recognized as confederates, planning and scheming to do the Indians and that in their tendencies and characteristics represent the predatory element of the interlopers who have by questionable means procured the enrollment of their names upon the annuity rolls of the Chippewa Indians of Minnesota, a benefit to which they have no original right nor justly entitled to, but belong in Wisconsin, if they have any rights whatever among any Indian tribes.

It is pertinent to inform your committee, that on account of the attempt of John G. Morrison, Jr., and Benj. L. Fairbanks, to procure the legislation provided in H. R. 8841, January 17, 1918, the Indians on the Red Lake Reservation have petitioned the Indian Bureau to revoke the traders' license held by John G. Morrison, Jr., and Benj. L. Fairbanks, or in which they are interested, and under which they are operating Indian trading establishments upon the Red Lake Indian Reservation, and remove their stores from the reservation. The force of the resentment among the Indians against the acts of these men is thus manifest.

Therefore a recognition of these gentlemen in matters relating to the Chippewa Indians of Minnesota, will, in their present status, extend to them in their individual capacity, and as they are regarded by the Indians in Minnesota, scheming and planning to do the Indian, for which they have sought the influence of Congress to accomplish.

The general council adopted resolution No. 3 July 9, 1918, authorizing the revision and purification of the annuity rolls of the Chippewa Indians of Minnesota. To the great detriment of the Chippewa Indians of Minnesota, a great many people who have no original right to be on said rolls have been placed upon said rolls under questionable circumstances, and some by actual fraud upon the Indians.

Therefore this legislative committee will propose legislation by Congress which will direct a revision and purification of the annuity rolls of the Chippewa Indians of Minnesota.

The general council, under resolution No. 8, adopted July 9, 1918, authorize this committee to obtain an act from Congress for the appropriation of \$10,000 to be used to pay the expenses of the delegates attending the general council and for the expenses and compensation of the legislative committee, owing to the great disadvantage experienced by the Indians under the present system of obtaining the use of the funds appropriated for the use of the general council and the long delays before the funds are actually available for use. It is desired that the funds so appropriated shall be immediately transferred to the First National Bank of Deer River, Minn., which had been designated as the treasury for the funds of the general council, which shall be paid for the purposes such funds are appropriated, upon vouchers approved and certified to under regular form by the president and the secretary of the general council, and when so certified shall be paid by the bank, acting as treasurer; the salaries of the president and secretary of the general council shall also be provided for in said appropriation.

Resolution No. 7, adopted by the general council in July, 1916, directs this committee to obtain an act by Congress to direct the sale of the jack pine, tamarac, cedar, and all other valuable merchantable timber standing upon the Minnesota national forest reserve in the same manner and under like conditions as are provided for the sale of the white and Norway pine under the act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians of Minnesota,' approved January 14, 1889," approved June 27, 1902, public No. 175, known as the Morris Act. The equity in the value of all of said timber is still in the Chippewa Indians of Minnesota.

The general council adopted Resolution No. 20 in July, 1917, directing this committee to obtain from Congress legislation appropriating and directing to be paid to the Chiefs Wah we yea cumig, of the Mille Lacs Bands, and Ain dah si ge shig, five thousand dollars each, and to the Chiefs Me ge ze, Goo-gee, and Nay gwa nay be ke wain zee, five hundred each from the funds of the Chippewa Indians of Minnesota, to compensate said chiefs for their services and the reimbursement for the expenditure of their private funds expended in the prosecution of the Mille Lacs Case, for the recovery of the value of the Mille Lacs Reservation.

This committee will propose suitable legislation to meet the obligation to the five chiefs therein named.

Your committee is invited to consider an item of \$1,000 which have heretofore been annually appropriated to be expended for the annual celebration of the settlement upon the White Earth Reservation by the mixed bloods of that reservation.

This legislative committee is familiar with the sentiment existing among the Indians in Minnesota in relation to this matter, and therefore considers it its duty to inform your committee that the sentiment prevailing among the Indians in Minnesota is against the appropriation of their funds for that purpose any longer, for the reason that the fund is not expended judiciously for the purpose it has been appropriated, as apparently understood by Congress in making the appropriation, but has been used largely, as it is alleged, by the mixed bloods, who have often managed to get control of its expenditure, to promote their personal interests. It is alleged it was used in the year of 1915, to the extent necessary, to pay for the traveling expenses both ways of John Warren, Billy Butcher, and Gay zhe gwan ay e yosh from Leech Lake to White Earth, Minn., three of the men who are used by the mixed bloods of White Earth in the capacity of dummy delegates when any stunt is to be pulled off by them in a fake council.

That in the year stated, 1915, these men were used in the council held at White Earth, beginning June 12, ending 14, 1915, when the notorious so-called Chippewa claims commission was created and organized, and the resolution was adopted which was intended to form the basis of procuring legislation from Congress to pay Gus H. Beaulieu and Benj. L. Fairbanks and others the aggregate sum of \$111,000 from the tribal funds of the Chippewa Indians of Minnesota, and at which Arthur C. Beaulieu was clothed with dummy powers to represent the Chippewa Indians of Minnesota to execute a contract with Ben. L. Fairbanks, Frank D. Beaulieu, John G. Morrison, jr., and others, as we have before stated, and their expenses is alleged to have been paid from this fund.

Your committee is therefore informed that the Chippewa Indians do not desire their funds used in that manner, and protest any further appropriation for the purpose of the 14th of June celebration at White Earth, Minn.

In connection with this subject, and the never-ceasing activities of the so-called mixed bloods of the White Earth Reservation, the attention of your committee is invited to House Calendar No. 357, Sixty-second Congress, this session, report No. 1336, report in the matter of the investigation of the White Earth Reservation, Minn., by Mr. Graham, January 16, 1913, pages 17, 18, and 19, which contain a report of the activities of the White Earth mixed bloods and the schemes they resort to in pulling off their fake councils by which they undertake to influence Congress and the departments, representing themselves as having been delegated authority to represent the Chippewa Indians of Minnesota, your committee has now before it a parallel case with the one described on page 17 of the report referred to, in the matter of councils held by the so-called mixed bloods of the White Earth Reservation in the persons of John W. Carl, Benj. L. Fairbanks, Frank D. Beaulieu and John Arten, who, it is alleged, were appointed by John G. Morrison, jr.

The general council of the Chippewa Indians of Minnesota have directed this legislative committee to give its attention to further matters relating to the affairs of the tribe, statements of which are in the course of preparation which will be submitted in due time to the departments to which those matters may properly receive attention.

This legislative committee will be pleased to submit, when required, proof evidence in support of every act or transaction contained in this statement. We have the honor to be,

Respectfully,

JAMES I. COFFEY,

President of the General Council of the Chippewa Indians of Minnesota, Ex-Officio Member of the Legislative Committee.

EDWARD M. WILSON,

Secretary of the General Council of the Chippewa Indians of Minnesota, Ex-Officio Member of the Legislative Committee.

CHAS. A. WAKEFIELD,

FRANK SMITH,

SAM FISHES,

WAH BE ZHAY (his x mark) SHEENEE.

BENJAMIN CASWELL,

Members of the Legislative Committee of the General Council of the Chippewa Indians of Minnesota.

I hereby certify that I have interpreted the foregoing statement to the members of this legislative committee, who do not understand the English language, and that they have indicated that they fully understand all of the matters stated therein.

WILLIAM LUTKINS, *Interpreter.*

EXHIBIT A.

[H. R. 8841, Sixty-fifth Congress, second session.]

A BILL Conferring jurisdiction on the Court of Claims to hear, determine, and render final judgment in the matter of claims of the Chippewa Indians and the several bands or tribes thereof in the State of Minnesota against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and enter judgment against the United States for any amount that may be found due the Chippewa Indians of Minnesota, or any band or bands thereof, on any claim of said Indians arising under any treaty or agreement made or entered into by the Government of the United States with said Indians. Suit shall be commenced by petition or petitions to be filed in said court within one year after the passage of the act in the name of the Chippewa Indians of Minnesota naming the United States as party defendant, which shall set forth the facts on which the said claimants base their claim or claims for recovery, and if such claim or claims are submitted to said court for determination it shall settle the rights, both legal and equitable, of said Indians and the United States therein and thereto, notwithstanding lapse of time or statute limitations; and the said petition or petitions shall be signed by the authorized attorney of said Indians who shall be selected

by their general council. The departments of the Government shall transmit to said court free of cost, for use in the trial of said case, all papers, statements of accounts, and records bearing upon the claims presented. Judgment or judgments shall be entered for any amount found due the Indians in the name of the Chippewa Indians of Minnesota. Either party shall have the right of appeal to the Supreme Court of the United States from any judgment or judgments of the Court of Claims. Upon final judgment or judgments being entered the Court of Claims shall allow the attorney reasonable compensation for all services rendered and money expended or contracted to be expended in the prosecution of said claims, which shall not exceed 10 per cent of the amount recovered, and which allowance shall be paid out of any judgment or judgments entered in favor of the Indians. The Attorney General shall appear and defend on behalf of the United States. Said case or cases shall be advanced upon the docket of both of said courts and heard as early as practicable.

SEC. 2. That where any property has been taken and is now being held or has been used or disposed of by the United States or its officers, including lands taken and included in forest reserves, for purposes contrary to any treaty with any band of said Indians now constituting the Chippewa Tribe of Minnesota or contrary to the terms and provisions of the agreements entered into pursuant to the act of January 14, 1889, by the United States with said bands under which they were consolidated and thereafter known as the Chippewa Tribe of Indians of Minnesota, all right, title, and interest of said tribe or bands of Indians in any such property shall cease and terminate, and so much of said property as has not been disposed of shall thereafter be held as the property of the United States, and the court shall enter judgment in favor of the Indians against the United States for the value of all such property so taken: *Provided*, That all mineral in any of said lands to which the United States has not passed the legal title or in which the United States has a reversionary right shall be and remain the property of said Indians.

SEC. 3. That the Secretary of the Interior is hereby directed to forthwith allot to all Indians entitled to allotments under the act of January 14, 1889, and the agreements entered into thereunder, 160 acres of agricultural land, to be selected by each person entitled to an allotment or his or her guardian or legal representative out of any land remaining undisposed of, and where any such person shall fail or refuse to make such selection said selection shall be made by the officers of the United States. The said Secretary shall forthwith, upon the completion of said allotments, dispose of all remaining tribal property in conformity with said act of January 14, 1889, as amended by the acts of February 26, 1896 (29 Stat. L., p. 17), and June 27, 1902 (32 Stat. L., p. 400); and where any property included within the terms and provisions of the agreements entered into under the act of January 14, 1889, has been disposed of and the funds derived therefrom are being held to any other credit than the credit of the Chippewa Tribe of Indians of Minnesota said fund shall forthwith be transferred to and placed in the permanent fund of said tribe.

SEC. 4. That the Secretary of the Interior is hereby directed to forthwith deliver over to all members of said tribe of less than full-blood, except old and indigent Indians and persons who have not attained legal age, all property, both lands and money heretofore or that may hereafter be divided in severalty and held or come in to the credit of any such person, and to invest each such person with the full legal title thereto by proper conveyance, and the Secretary shall likewise deliver over all such property of any full-blood, where such full-blood is found competent to manage the same and make application in writing therefor: *Provided*, That all allotments heretofore, or that may hereafter be made to members of said tribe and upon which restrictions as to sale and alienation are herein removed, shall remain nontaxable so long as said land shall remain the property of the allottee.

SEC. 5. That the members of the Chippewa Tribe of Indians of Minnesota shall be eligible to any office in the Indian service in Minnesota and shall, as far as practicable, be appointed to all such positions.

SEC. 6. That the Secretary of the Treasury is hereby authorized and directed to pay the expenses of the General Council of the Chippewa Indians of Minnesota and the expenses incurred in prosecuting the suit or suits authorized herein, not exceeding \$25,000 per annum, out of any money standing to the credit of said tribe on the books of said department, said expenses to be approved by the secretary and president of said General Council and certified to by said secretary, and as so approved and certified to be paid.

Mr. HAYDEN. You claim these other gentlemen are not members of the legislative committee?

Mr. COFFEY. Those gentlemen I have just named; yes, sir.

Mr. HAYDEN. You say they are not?

Mr. COFFEY. The statement covers that point, I believe.

Mr. SNYDER. Have you got anything in this statement which shows why this \$160,000 should be appropriated, any concrete proposition as to why it should be appropriated? That is what I am interested in. All this stuff seems to be extraneous to me.

Mr. COFFEY. Not in this statement.

Mr. SNYDER. Could you make your argument along that line? Tell us why you and the people that you represent want this \$160,000 appropriated, if you do want it appropriated. You have not said so far whether you do or whether you do not. These thousand and other intricate things we have got to take up, perhaps, as we go along in the legislation, but what I want to know now, as a member of this committee, is whom you represent, and why you want this \$160,000 appropriated?

Mr. COFFEY. I could give you the facts covering that proposition.

Mr. SNYDER. That would be interesting.

Mr. COFFEY. During the winter of 1887-88 I was here in the city with a delegation from Minnesota. That was the time when the bill of January 14, 1889, was being drafted by then Congressman Nelson. He had that bill in mind, and when he knew we were here in the city he called upon our delegation and asked us to go over to his room, where he was at work on the bill, and we did, and he told us about this bill, and he explained every feature of it, and he asked us to make suggestions as to what the Indians would like to have incorporated in that bill, and he asked a great many questions and inquiries as to the conditions up there, and about the settlement of the Indians, and he called upon us and asked us to come to his rooms about once every one or two weeks during the winter, so in that way I got what I consider pretty thorough information covering that bill.

Mr. SNYDER. How many years ago was that?

Mr. COFFEY. I think that was the winter of 1887-88.

Mr. SNYDER. Let us get down to the thing we are dealing with here now, not what happened 40 years ago.

Mr. COFFEY. I am telling so you will know.

Mr. SNYDER. I know, but that does not help the situation.

Mr. COFFEY. When the treaty was being negotiated with Mr. Rice. Mr. Rice spoke those words that were read here by Mr. Beaulieu and the Indians so understood that was the purpose of the agreement. As a matter of fact, it did not enter my mind at that time, and I know that nobody spoke of it, and I believe that nobody understood that after the time had come to close up the operation of carrying out that treaty, for which about \$180,000 or \$160,000 was appropriated for the first three or four years, in order to complete the carrying out of that treaty. Nobody believed that after that time the money would be continued to be appropriated, and I was surprised myself, after the agreement had been disposed of, to still find it in the appropriation bill. So I did not give it much attention. I believed that that item would be dropped if the money was not used further for the removal and settling of these people on the White Earth Reservation.

and that whatever was left would go back into the fund, but since that time that appropriation has been made annually. Now, there is the fact.

Mr. HAYDEN. Then, as a matter of fact, you do not think this appropriation of \$160,000 should be made from the Chippewa funds?

Mr. COFFEY. There is the agreement and there is the fact.

Mr. HASTINGS. You think, then, that it violates the agreement?

Mr. COFFEY. The Indians' belief was—

Mr. HASTINGS. You were present at the time the agreement was made and you heard this statement made by Mr. Wright that Mr. Beaulieu has read there?

Mr. COFFEY. I was one of the men who participated in negotiating that agreement on our reservation.

Mr. SNYDER. Then the only conflict here is that you claim to represent one set of people and Mr. Beaulieu and his associates there you claim do not represent any particular number, but you do both agree that the \$160,000 ought not to be appropriated at this time; and you do both agree upon the original proposition that the law does not permit this money to be taken for this purpose; is that right?

Mr. COFFEY. I do not only claim to represent the Chippewa Indians, but I do.

Mr. SNYDER. The main thing that I want to know is just what I asked you.

Mr. COFFEY. Well, it is the sentiment of the Indians that Congress ought not to appropriate this money.

Mr. SNYDER. That is enough for me.

Mr. HAYDEN. What will happen, in your opinion, if this \$160,000 is not appropriated?

Mr. COFFEY. We suppose it will do away with a great deal of this administrative work that is being carried on in Minnesota.

Mr. HAYDEN. Do you think the Chippewa Indians in Minnesota will suffer if it is not appropriated?

Mr. COFFEY. Of course, you know there was an appropriation made for the schools, for carrying on the schools.

Mr. SNYDER. Let him answer the question whether the Indians will suffer any?

Mr. HAYDEN. He is going to answer that. He is saying something about the schools. If we do not appropriate this money, will it do away with any schools?

Mr. COFFEY. There is provision made in the act for conducting the schools.

Mr. HAYDEN. This money is in addition to that other money appropriated in that act?

Mr. COFFEY. We really do not know in what form it is in the act, but there is the fact.

Mr. HAYDEN. The facts are that the Indian Office is using certain Chippewa moneys for the maintenance of schools, and then, in addition to that, they are using this \$160,000, or at least a part of it, to supplement that school money and continue the conduct of the schools. Now, will the schools suffer if this appropriation is not made?

Mr. COFFEY. I do not know to what extent the money is being used to carry on those schools. Of course, the schools should be maintained. There is no question about that.

Mr. HAYDEN. If we should discover, by looking into the facts, that some part of this money was used to maintain the Chippewa schools, would you be in favor of appropriating it?

Mr. COFFEY. The Indians so regard it. The Indians do not want the schools abolished. They want their children to receive the education they are entitled to.

Mr. HAYDEN. Then the only thing you are in doubt about is that you do not know what part of this \$160,000 is being used for the schools?

Mr. COFFEY. I have never looked into that.

Mr. HAYDEN. But if any part is going into the schools you are satisfied to have it go in here?

Mr. COFFEY. If it is going in properly, I am; certainly.

Mr. HAYDEN. What you are trying to get away from, then, is the agency and administrative features. You think those could be abolished without injuring the Indians?

Mr. COFFEY. The agency, I believe, should be maintained with the funds of the United States. It is the business of the United States.

Mr. HAYDEN. That is the point we have discussed here a great many times. You think that the work of the agency ought to be maintained, but ought to be maintained out of the funds of the United States, and not out of the Chippewa funds?

Mr. COFFEY. Yes; we believe the agencies should be maintained. They are necessary, as a matter of fact, because the conditions up there are such that supervision over the greater number of the Indians is necessary.

Mr. HAYDEN. But you do not want to pay for the agencies; you want the United States to pay for them.

Mr. COFFEY. Let those pay for it who have the right to pay for it. Let the expense fall where it belongs.

Mr. HAYDEN. Then there comes a conflict between the competent and incompetent Indians in that reservation. You want the competent Indian to have his own money and not pay any part of this expense, and the incompetents to have all the expense of caring for their business paid by them; is that the idea?

Mr. COFFEY. If that is the condition. Those who get the benefit of the administration should pay for it.

Mr. HAYDEN. You think those who are competent and do not need supervision and do not get any benefit from it should not pay for it?

Mr. COFFEY. I believe if a man is competent and has got his property, he should get out.

Mr. HAYDEN. The only question is this: In view of the fact that this money is tied up for a period of 50 years, there is no way of dividing it until at the end of the 50-year period. That being the case, Congress has year after year appropriated a part of it for the care of all the tribe, or those members of the tribe who needed it. Your objection is that those who do not need supervision should not pay, but we can not divide the money now.

Mr. COFFEY. Of course, it is necessary to maintain the schools and it is necessary to maintain those agencies and the supervision of the Indians, and that should be done in the best way we know how.

Mr. HAYDEN. Here is a tribe of Indians that has \$6,000,000 in the Treasury to their credit, which will be divided after 50 years. You

say that notwithstanding the fact that they have that money in the Treasury, the Chippewas should not pay for the maintenance of the agencies, but the taxpayers of the United States should pay it. The agencies are necessary and the schools are necessary, you admit, but you do not want to pay for them yourselves?

Mr. COFFEY. The fact of the matter is that the treaty should be followed; whatever the agreement was, that should be carried out, and if it is necessary to change that agreement, then it should be changed by both parties.

Mr. HAYDEN. Then you are not disputing the necessity for the schools, you are not disputing the necessity for the agencies, but you are simply standing on the law and on your interpretation of this treaty, to the effect that legally you should not pay such expenses. You are making a legal argument, and that is the only argument you are making against this appropriation?

Mr. COFFEY. That is all.

The CHAIRMAN. Did you say whom you represented?

Mr. COFFEY. We represent the Chippewa Indians of Minnesota.

The CHAIRMAN. What proportion of them do you represent?

Mr. COFFEY. One hundred per cent of them.

Mr. HAYDEN. What happened was this: Mr. Carl, Mr. Beaulieu, and others were elected at the regular meeting of your council to represent the tribe. They came to Washington, and on a report being made of what they had done you called a subsequent meeting of your council and revoked their appointment, and appointed yourself and some other gentlemen in their place?

Mr. COFFEY. They introduced a bill here that was not authorized, which contains a provision——

Mr. HAYDEN. And that bill and their other acts in Washington did not meet with the approval of the tribal council, so their appointments were revoked and other persons appointed in their stead?

Mr. COFFEY. Yes, sir.

Mr. HAYDEN. Those other persons, of whom you are one, have signed this paper you have read to us?

Mr. COFFEY. Yes, sir.

Mr. HAYDEN. You want to put that whole paper in the hearing? Without objection, that will be done.

Mr. HASTINGS. When were you elected?

Mr. COFFEY. The 9th day of July, 1918.

Mr. HASTINGS. Last July?

Mr. COFFEY. I was elected first——

Mr. HASTINGS. I do not care about first, but the last time.

Mr. COFFEY. Yes.

Mr. HASTINGS. Has there been any subsequent action by the council?

Mr. COFFEY. No, sir.

Mr. HASTINGS. None since July, then?

Mr. COFFEY. No, sir.

Mr. HASTINGS. You and your associates are the last ones elected by the tribe?

Mr. COFFEY. Yes, sir.

Mr. HASTINGS. And you were elected at a meeting of the general council?

Mr. COFFEY. Yes, sir.

Mr. HASTINGS. Was a quorum present?

Mr. COFFEY. Yes, sir.

Mr. HASTINGS. How is your council elected?

Mr. COFFEY. The delegates are elected at the various reservations on a certain day set.

Mr. HASTINGS. When was this council elected?

Mr. COFFEY. Which council is that?

Mr. HASTINGS. The council that elected you—the one that was in session last July?

Mr. COFFEY. On the 9th day of July, 1918.

Mr. HASTINGS. You say they were elected at the various reservations—that they met and elected——

Mr. COFFEY. Their delegates to this general council.

Mr. HASTINGS. The delegates to the general council—when were they elected?

Mr. COFFEY. They were elected in May.

Mr. HASTINGS. Of 1918?

Mr. COFFEY. I think it is in June.

Mr. HASTINGS. Well, this year?

Mr. COFFEY. Yes, 1918; the 2d of June, this year—1918.

Mr. HASTINGS. Were they elected at a general election that was called at the various places throughout the agency?

Mr. COFFEY. The local elections all over the reservation were called upon the same day for that purpose; yes, sir.

Mr. HASTINGS. Who called them?

Mr. COFFEY. The chairman or president of the general council.

Mr. HASTINGS. Does the Indian Bureau have anything to do with the elections?

Mr. COFFEY. No, sir.

Mr. HASTINGS. Nothing whatever?

Mr. COFFEY. No, sir.

Mr. HASTINGS. They are Indian elections?

Mr. COFFEY. Purely an Indian proposition.

Mr. STEENERSON. It is an incorporated body under the State laws. is it not?

Mr. COFFEY. It is an organization of Indians.

Mr. SNYDER. Mr. Coffey, in making the statement that you believe the agencies and the schools should be continued, you, of course, want it understood that that corresponds with the other statement you made that you do not think the \$160,000 should be appropriated, and that brings us down to the conclusion that you think that the agency and the activities up there should be carried on but should be carried on without that appropriation?

Mr. COFFEY. The agency should be carried on, we believe, with the funds of the United States.

The CHAIRMAN. Mr. Coffey, what do you want done with the \$6,000,000?

Mr. COFFEY. With what?

The CHAIRMAN. This \$6,000,000.

Mr. COFFEY. I believe there was an act passed last year authorizing——

The CHAIRMAN. Just tell me what you want done with it.

Mr. COFFEY. The Indians would like to have that segregated and paid out.

The CHAIRMAN. Immediately?

Mr. COFFEY. That is the general sentiment; yes, sir.

The CHAIRMAN. Does not the treaty provide that it shall not be paid out for 50 years; that is, 20 years from now?

Mr. COFFEY. Yes, sir.

The CHAIRMAN. You want it paid out, then, in violation of that treaty?

Mr. COFFEY. You would not violate it if the Indians accepted of it and both sides agreed to it.

The CHAIRMAN. That does not answer the question. It might violate a serious principle of law. For instance, you have provided to divide this in 50 years from a certain date, and if you divide it 20 years before that time there might be a great many people living now who would not be entitled to it at the end of 20 years. Well, I want to know what you want done with it?

Mr. COFFEY. I will tell you what the Indians up there want. Most of the Indians up in our country, northern Minnesota, are in very poor circumstances, and there is not money enough for us to get any dwelling houses to live in, and what they have are log houses, and they have practically there very little land under cultivation, and I believe it would be a good plan to appropriate quite a considerable portion of that money and have it expended, under supervision, to have the land cleared and homes built for them.

The CHAIRMAN. That is what you would like to have done with it?

Mr. COFFEY. Yes.

The CHAIRMAN. You would not want it paid out per capita?

Mr. COFFEY. I do not think it would be wise; no, sir.

The CHAIRMAN. Let me ask Mr. Beaulieu what does your delegation want done with this money, Mr. Beaulieu?

Mr. BEAULIEU. Our delegation thinks that the money that is being expended for administrative purposes ought to be segregated and either paid or placed to the credit of these people, if it can not be paid until the 50 years expires; but right there the law provides that it shall be paid at the expiration of 50 years, or after the allotments provided therein shall have been made.

The CHAIRMAN. Does it say "or after?"

Mr. BEAULIEU. Yes; after the allotments provided for herein shall have been made. The Red Lake Indians have not been allotted to-day, and therefore the limitation has not started to run, under the law. It may be 100 years before they will pay this money. It will not last that long.

The CHAIRMAN. Then, if I understand you, what you desire done is this—that the part that is being spent for administrative purposes should be divided among the Indians?

Mr. BEAULIEU. Should be segregated and either paid to them per capita, or credited to the individual.

The CHAIRMAN. Credited to each individual. Well, what would you do with the balance of the \$6,000,000, Mr. Beaulieu? What do you want done with that?

Mr. BEAULIEU. You mean the permanent funds.

The CHAIRMAN. The whole \$6,000,000?

Mr. BEAULIEU. Yes; that is what I was speaking of.

The CHAIRMAN. What you want, then, is to stop paying the money out for administrative purposes, and pay it to the Indians?

Mr. BEAULIEU. Yes; either conserve it for them until the end of the 50 years, or pay it out.

Mr. TILLMAN. You are willing for the United States to pay those administrative charges, are you not?

Mr. BEAULIEU. I do not believe there is any necessity for the administrative charges in our country. We can make better citizens without this domineering influence up there. That is the thing we are against.

Mr. COFFEY. If you will permit me, I would like to complete reading this statement.

Mr. HAYDEN. Your statement refers exclusively to a certain bill, which is not before the committee at this time. Your council is opposed to that bill, which is the sum and substance of your paper?

Mr. COFFEY. There are several other items in this statement that I think should go into the record.

Mr. HAYDEN. They will all go in the record. We will print it for you, but there is nothing in the statement that relates to this \$160,000, is there?

Mr. COFFEY. No, sir.

Mr. HAYDEN. We will be glad to have the whole statement printed in the record; we will do that for you; in fact, it has already been agreed to, but we will not have the time to stop and read it now, when the point at issue is this appropriation of \$160,000. That is all we are discussing at this time.

Mr. COFFEY. I have given here the facts regarding that matter, and the Indians understand them.

Mr. HAYDEN. I want to ask Mr. Beaulieu a question. You have heard the statement by Mr. Coffey with respect to the fact that you do not represent the tribe, or that your associates do not represent the tribe. What is your answer to that?

Mr. BEAULIEU. I emphatically deny that statement. We are the only representatives of the only general council held by the Chippewa Indians of Minnesota. Let me make that plain. Article 2 of the constitution of the general council, adopted in 1913 at the first general council, and which remains unmodified, provides for the offices of president, vice president, secretary, treasurer, interpreter, assistant interpreter, and an executive committee, and then provides with reference to their election and tenure of office as follows:

These officers shall be elected at this general council meeting and hereafter at the annual general council in such manner as the general council shall direct, and shall hold their respective positions until the next annual meeting of such general council, except that the president shall be elected for a term of two years commencing with the election of the year 1917. Vacancies between two annual meetings may be filled by the executive committee for the unexpired term.

At the general council held at Bemidji in July, 1917, John Morrison, jr., was duly elected president for the term of two years, and Paul H. Beaulieu was elected secretary for the term of one year.

On May 1, 1918, President Morrison issued the call for the election of delegates to the general council to be held at Bemidji in July, 1918. Pursuant to that call delegates were duly elected and the g

eral council held. At that council Mr. Morrison, the president, whose term does not expire until July, 1919, was authorized by proper resolution to appoint the members of the legislative committee to come to Washington, and myself and my associates were duly appointed by him as will appear from the following certificate:

RED LAKE, MINN.

Pursuant to authority vested in me by article 6, section 1, of the by-laws of the general council of all the Chippewas in Minnesota, I have and do hereby appoint: (1) B. L. Fairbanks, from the White Earth Reservation; (2) Frank D. Beaulieu, from the White Earth Reservation; (3) Edward L. Rogers, from the White Earth Reservation; (4) Paul H. Beaulieu, from the Red Lake Reservation; (5) John Arten, from the Fond du Lac Reservation, as members of the legislative committee of said general council, to proceed to the city of Washington, D. S., at such time as they deem expedient, and there in the name and on behalf of the Minnesota Chippewas take such action as may be requisite and necessary to secure the enforcement of all treaty obligations with said tribes or any band thereof, and the enforcement of the terms and provisions of the agreement entered into with the United States pursuant to the provisions of the act of January 14, 1889, and to prosecute any claims of said Indians arising out of any violation by the United States of any provision of any such treaty or agreement, to the end that the Chippewa Indians of Minnesota may receive from the United States all rights and privileges secured to them by their treaties and agreements with the United States.

Given under my hand and the seal of the general council this 11th day of October, A. D. 1918.

J. G. MORRISON, Jr.,

President of the General Council of the Chippewa Indians of Minnesota.

Attest:

PAUL H. BEAULIEU,
Secretary.

It is pursuant to that authority, regularly given by our general council and its president that we are here representing the Chippewa Indians of Minnesota.

Now, one word as to James I. Coffey and the men who are with him. In December, 1917, James I. Coffey was appointed by President Morrison a member of the legislative committee to come to Washington. He accepted the appointment and came to Washington, but refused, after arriving in Washington, to carry out the instructions of our general council. He was first removed, and then resigned, at the time declaring that he would destroy our usefulness in Washington, and, if necessary, destroy our general council. He returned home, got a few ignorant Indians together at Ball Club, and pretended to hold a general council at which he claims to have removed Morrison as president and to have elected himself as Morrison's successor. In July, 1918, when the regular general council was in session, he went to Bemidji, and with a number of other Indians who had been deceived by Coffey, held, what he alleged to be a general council, at which he again elected himself president and appointed himself and these other gentlemen who accompany him, members of his legislative committee.

He is no more in law or in fact president of our general council than is any member of this committee. John G. Morrison is our president, and he alone presided over our general council, which was the only general council held in Bemidji or anywhere else during the year 1918.

Mr. BEAULIEU. Mr. Coffey went around and spread a lot of lies among some of these poor old ignorant Indians up there, and we

had him arrested for libel, and he was convicted for telling lies about us to these old fellows, and he got them together last April and elected himself president. Mr. Morrison was president prior to that time, and the by-laws provide that the president shall hold office until his successor shall be elected.

Mr. HAYDEN. That was done in April?

Mr. BEAULIEU. Yes.

Mr. HAYDEN. Mr. Coffey says that in the following May there were meetings in the various agencies which elected delegates to the general council, and the general council elected him president, so that you do not represent anybody.

Mr. BEAULIEU. Yes, we do; because we sent delegates from the White Earth delegation to attend the council, which was regularly called by Mr. Morrison, and we do not recognize that Mr. Coffey's gathering in April discharged Mr. Morrison. Mr. Morrison was still president until July, when he was reelected by the council.

Mr. HAYDEN. There were two councils?

Mr. BEAULIEU. Mr. Coffey's tribe and ours.

Mr. HAYDEN. The Chippewas held two councils at the same time and at the same place, in the same town?

Mr. BEAULIEU. Yes.

Mr. HAYDEN. One in one meeting house and the other in another.

Mr. BEAULIEU. Yes, sir; two different halls.

Mr. COFFEY. The fact of the matter is that these gentlemen are Indians, and are not regarded as Indians.

Mr. BEAULIEU. We are on the rolls just the same, and are considered by the Government as Indians.

Mr. HAYDEN. The fact has developed that there has been a change in the Chippewa Tribe of Indians; that there were two general councils held, and two different legislative committees elected in July.

Mr. BEAULIEU. Only we contend that their election was contrary to the constitution and by-laws, the facts being as I have hereinbefore stated.

Mr. COFFEY. The fact of the matter is that these men undertook to pull off a great stunt, by which they would have benefited to the extent of over a million dollars last winter, by virtue of a bill introduced in Congress, and we are here to show that, and I think there was a roll, and they do not represent a single Indian excepting themselves.

Mr. MERITT. Right in that connection, Mr. Chairman, there is an item in the Indian appropriation bill of last year which appropriated, I think, \$10,000 for the expense of the Chippewa council, and the question is now up to the Indian Bureau to determine which Chippewa council, because both councils have submitted bills to us to pass on, and that question is now up for decision, and I am glad to have the committee hear both sides, because that is one of the questions that we will be required to decide in the near future, in passing these accounts to the auditor.

Mr. HAYDEN. So far as this subcommittee is concerned, they have the representatives of both factions of the Chippewa Tribe. I have the record in opposition to this appropriation, and that is the subject matter we have to consider. You have said all you want to say.

so I presume there is no necessity for calling you back here for any further testimony about it.

Mr. HASTINGS. There are two or three items here that Mr. Miller went into when he was here. For instance, the payment of some of these representatives, which is not in here, which was not presented, but which he wanted to present.

Mr. HAYDEN. Mr. Miller telephoned me that he was compelled to be out of the city to-day and to-morrow, so could not be present at this hearing.

Mr. HASTINGS. Did not the subcommittee, or the committee, take some testimony on that, because we have got to report it? It will come up before the committee when the bill comes up.

While these gentlemen are here I would like to make my mind up on the facts.

Mr. MERITT. I think I can save the committee some time on that question. The Chippewa legislative committee was here last winter and stopped at the National Hotel. They claim they submitted their accounts to the Indian Bureau covering their hotel bill. We were never able to find those accounts. They resubmitted them recently, within the last 30 days, and we passed that account to the auditor, recommending that the bill be paid, at the same time making it clear that we did not recognize the council headed by Mr. Morrison. That account is now before the auditor for settlement, and it is expected that that settlement will be made very soon.

Mr. HASTINGS. Then, that will not come up before us for consideration any further. There was one other item that either Mr. Steenerson or Mr. Miller wanted to submit, something about the annual fair out there and the appropriation of \$1,000, which has been carried along in the Indian bill heretofore. Mr. Steenerson, was it you or was it Mr. Miller?

Mr. STEENERSON. I was talking to the chairman about that.

Mr. TILLMAN. You recommended the appropriation for the fair?

Mr. STEENERSON. Yes; the annual celebration, they call it.

Mr. TILLMAN. Both factions agree upon that?

Mr. STEENERSON. I believe so.

Mr. HAYDEN. Both factions want that appropriation of \$1,000 for the annual fair?

Mr. COFFEY. This paper contains something in regard to that, that the Indians do not want it. I would like to have you read this paper. It will not take you very long. It will give you the facts.

Mr. HAYDEN. We are going to have it printed. It will all appear in the hearing. I assure you that I shall read it, as will the members of the committee.

Mr. MERITT. There are quite a number of Indians in the Chippewa country that are opposed to the use of this \$1,000 for this celebration at the White Earth Reservation. It has been misnamed a fair. It is not, in a sense, a fair, but a celebration, and some of the full bloods claim that this money is used for the purpose of keeping up the organization of the mixed bloods on the White Earth Reservation, so they can manipulate the affairs of the Chippewa Indians for their personal benefit. That is the basis of the protest of the full-blood Chippewa Indians.

Mr. CARTER. Mr. Meritt, there was a question came up the other day here, which we were discussing, as to class & funds. Included in

class 4 funds are the funds you collected from the sales of farm products and things of that kind at the different schools, are they not?

Mr. MERITT. Yes, sir; they are not tribal funds; they are funds derived from the labor of the students at some of these schools, and other fourth class funds.

The CHAIRMAN. Under the present law you have the right to use those funds, have you not?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Without an appropriation by Congress?

Mr. MERITT. Yes, sir. Mr. Chairman, there are some legal questions which have been raised on this appropriation, and it is a very important matter. Several million dollars have been expended already out of the Chippewa fund, under the theory that Congress authorized this money to be expended, under section 7 of the act of January 14, 1889. We want to make that perfectly clear to the committee, because the Chippewa Indians are endeavoring to get legislation to get their claims in the Court of Claims, and we want to state the legal reasons why we have asked for this appropriation, and to show the authority of Congress for those appropriations, and also set out in the record a decision of the Supreme Court, which has sustained the action of Congress heretofore and the action of the Indian Bureau in using these funds of the Chippewa Indians. It is such a vital matter to the Government that I think it ought to be made perfectly clear.

Mr. HAYDEN. Permission was given you sometime ago to do that very thing.

Mr. HASTINGS. It is already in the record. You put that in the hearing, did you not?

Mr. HAYDEN. One decision of the Supreme Court is in the hearing.

Mr. MERITT. There is a decision of the Supreme Court already in the record.

Mr. HAYDEN. We asked you some little time ago, when I stated that the issue was joined between the Indians and the Indian Office, if there was anything else you had relative to that matter, and permission was granted to you to add anything that you might desire to your hearing which you considered necessary to make your position clear.

Mr. MERITT. I have permission, then, to prepare a statement and place it in the record, in answer to the argument by the Indians?

Mr. HAYDEN. Yes, sir.

Mr. HASTINGS. You have heard the statement of Mr. Beaulieu, and you have heard the statement of Mr. Coffey as to what representations were made to these Indians by Mr. Rice and these other representatives of the Indian Office at the time this act was ratified. I presume that, of course, has been brought to your attention time after time. Now, is there any inaccuracy in the statement as to what Mr. Rice heretofore said to those Indians at the time, or has it been accurately stated?

Mr. MERITT. I would not attempt to say that that statement has been incorrectly quoted, but I would say that the Government is not absolutely bound by every statement that the commissioners might have made to the Indians. The Government is bound by the treaties

approved by the President and Congress and by legislation enacted by Congress. Congress has enacted legislation subsequent to the conversations of these commissioners with these Indians.

The CHAIRMAN. But that was done without the consent of the Indians, this last legislation that was enacted. The Indians were not consulted about that, were they?

Mr. MERITT. The Indians were consulted in the drafting of this legislation. Mr. Coffey has told you, as a delegate from the Chippewa Indians, that he was consulted in drafting this legislation.

The CHAIRMAN. But this subsequent legislation that was passed changing that was passed without consulting the Indians at all, was it not? That was simply an act of Congress?

Mr. MERITT. But my point is that the Government is not bound by the informal conversations of a commission that went out to negotiate with the Indians in regard to their property when it conflicts with legislation and treaties.

The CHAIRMAN. There might be a disagreement about that.

Mr. HASTINGS. Mr. Meritt, you heard my statement about what the decisions of the courts have been for the last 100 years, that representations made to Indians by representatives of the department are always taken into consideration in construing the language of a treaty or act of Congress?

The CHAIRMAN. The decisions state that the treaty must be construed as the Indians themselves understood it at that time.

Mr. HASTINGS. The Supreme Court has decided that for 100 years.

Mr. MERITT. I do not agree with you on that proposition, Mr. Hastings, as to what the decisions of the Supreme Court have been. Let me quote you a very recent decision of the Supreme Court on this very point:

The only point presented for decision is whether by the language used Congress has sufficiently indicated an intent to appropriate the money in question. The bill does not challenge its power.

Under an act approved January 14, 1889 (25 Stat. 642), lands in Minnesota occupied by Chippewa Indians were disposed of and proceeds deposited to their credit in the United States Treasury, it being agreed that the fund should bear 5 per cent interest to be paid directly to the Indians or used for their schools, and, further, "that Congress may, in its discretion, from time to time, during said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof." For many years subsequent to 1889 under the general head of "Current and contingent expenses of the Indian Department * * * and fulfilling treaty stipulations with various Indian tribes" appropriations were made for general benefit of Chippewas "to be reimbursed to the United States out of the proceeds of sales of their lands." In 1911 their funds derived from land sales had become very large; and beginning then and continuing down to 1914 the annual Indian appropriations bill contained an item essentially similar (except as to amounts) both in words and position to the one in section 8, act of 1914 quoted above.

It seems clear "that civilization and self-support" among the Indians can not be promoted effectively by disconnected efforts, but must be accomplished, if at all, by definite, permanent plans operating through many years. And in view of the long continued practice of Congress to provide funds for such continuous efforts by annual appropriations, the circumstances under which the joint resolution became law, and the studied incorporation therein of the language of former appropriation acts, we think the purpose was to authorize expenditure of \$160,000 during 1916, as had been done for 1915. A different construction might have occasioned disruption of well order arrangements for advancing the Nation's wards, to the great detriment of all concerned; and to such unfortunate consequences experienced legislators probably were not oblivious.

That is the decision of the Supreme Court in the recent case brought by the Chippewa Indians to prevent the department from using this fund appropriated by Congress, and also the Supreme Court has held, in what is known as the Lone Wolf case, 197 U. S. Supreme Court Reports, page 553—

Mr. HASTINGS. That says that Congress can do anything on earth with Indian money, but it does not question that you must take into consideration the representations made by a representative of the Government in the construction to be placed upon a treaty or an act of Congress?

Mr. MERITT. In that decision by the Supreme Court the Supreme Court has clearly held that Congress has the right and the power to enact legislation contrary to a treaty with the Indians, and that the power of Congress is equal to a treaty provision.

Mr. HASTINGS. Nobody is taking issue with you on that proposition.

Mr. MERITT. That is exactly the question involved here.

Mr. HASTINGS. The point I have been trying to ask you is whether or not the courts have not, for 100 years, held that you could take into consideration the representations of the representatives of the Government, and not only that you could, but you must, in the construction to be placed upon a treaty or an act of Congress, at the time it was entered into, as to how these unlettered people understood it at the time these treaties were entered into.

Mr. MERITT. That is absolutely true.

Mr. HASTINGS. Then you agree with me?

Mr. MERITT. I agree with you on that point, but I do not agree with the proposition that Congress has not the authority to appropriate this fund as it may see fit, regardless of what was said by one of the commissioners who went to negotiate this treaty.

Mr. HAYDEN. Then, if the Chippewas filed a suit and claimed that Congress had erroneously appropriated certain sums of money, and asked to be reimbursed for it, it would be a question for the court to decide, first, whether Congress had the authority to appropriate money from the permanent funds of the Chippewas, and, secondly, whether in interpreting this treaty there was some moral obligation on Congress to refund the money?

The CHAIRMAN. If it got on the equity docket, they would go into all that.

Mr. HAYDEN. But that is not a matter at issue here. The only question is whether we shall make an additional appropriation of \$160,000 at this time, and not whether we shall stop to interpret a treaty.

Mr. HASTINGS. I understand that all the courts have heretofore decided, as Congress has done, that Congress, having made an appropriation, of course the department is authorized to expend it: but it can not expend it without authority of Congress.

Mr. MERITT. Not at all.

Mr. HASTINGS. The courts just uphold the power of Congress to make it. The court, in the Lone Wolf case, and hundreds of other cases since that time—every court in the land has said that Congress could write this and that into the language of an Indian treaty, and do what it wanted to, as long as it maintained its tribal relations.

Mr. COFFEY. I would like to ask the committee this: Our delegation has gone over the printed report of the hearings of the committee that have taken place. We did not find there some of the matters that were gone over on the reservation, and particularly the exhibits to the report of Mr. Linnen, and our delegation would like to have those exhibits printed in the proceedings of this committee.

Mr. HAYDEN. I do not think there is any necessity for printing those exhibits. They would simply encumber the record. This hearing is printed for the information of the members of the Committee on Indian Affairs, and, speaking for one of them, I do not propose to take the time to read through anything of that size.

If there is nothing further, the committee will stand adjourned.

SUPPLEMENTAL STATEMENT BY THE LEGISLATIVE COMMITTEE OF THE CHIPPEWA GENERAL COUNCIL.

WASHINGTON, D. C., January 11, 1919.

The COMMITTEE ON INDIAN AFFAIRS,

House of Representatives, Washington, D. C.

GENTLEMEN: The delegation from the Chippewa Indians of Minnesota was present at the hearing held in the committee rooms of the House Committee on Indian Affairs January 10, 1919, and heard the statements made by Frank D. Beaulieu to the committee in relation to the Chippewa Indians of Minnesota.

Mr. Beaulieu claims that only 10 per cent of the Chippewa Indians of Minnesota are incompetent; that the total membership of the Chippewa Indians of Minnesota is 11,839; and that 6,555 Indians were allotted and reside on the White Earth Reservation. The facts are, as the records of the Indian Office will show, that about 90 per cent of the Chippewa Indians in Minnesota, who belong on other reservations than the White Earth Reservation, are regarded as incompetent and only about 10 per cent are competent; that the statements made by Mr. Beaulieu in that particular point are misleading and can not be sustained. The facts are known to most everybody on the White Earth Reservation that all of those mixed bloods, upon whose allotments the restrictions from alienation were removed, are not regarded as competent and have disposed of their allotments for sums regarded as considerably less than the actual value of the land and now have no land whatever and live from hand to mouth.

There are about 1,000 adults and 3,000 children, full-blood Indians, on the White Earth Reservation who are regarded as incompetent, and the estimate here given of 90 per cent of the Indians living upon the other reservations or ceded reservations as being incompetent represents the facts in that respect.

On none of the reservations or ceded reservations in Minnesota do the Indians desire that the schools and agencies be abolished, but are unanimous in their desire to have them maintained. About one-half of the Indians of the Red Lake and Nett Lake Reservations are full bloods and incompetent. This does not include the mixed bloods, who are also incompetent.

In the statement submitted to your committee January 10, 1919, this delegation stated that Ben Fairbanks, Frank D. Beaulieu, John W. Carl, and John Arten did not represent the Chippewa Indians of Minnesota in any official capacity whatever, because of the fact they claim to have received their authority from John G. Morrison, jr., whom they allege is the president of the General Council of the Chippewa Indians of Minnesota, and whom we have stated had been removed from office April 25, 1918. The practice of their alleged council in selecting a legislative committee is done through the selection and appointment of such committee by John G. Morrison, jr., not during any session of the general council, but at any time Morrison may choose during the recess at his convenience and by himself, and the Indians are not consulted in that matter whatever. So, as a matter of fact, the Chippewa Indians had no voice in the selection of any of the members of the so-called legislative committee appointed by John G. Morrison.

After the removal of John G. Morrison, jr., from office the general council changed the system or method of appointing the legislative committee from

that adopted by Morrison to that of one where the legislative committee is selected on the floor of the council during its session by the Indians themselves, without any voice of the chairman or president. This present legislative committee was selected in this manner by the Chippewa Indians of Minnesota to represent them.

By a resolution, numbered 3, adopted at the general council July 9, 1913, this legislative committee was directed to procure a revision of the Chippewa Indian rolls. A large number of names appear on said resolution which are claimed to be there without any right whatever and were put on said rolls without the consent of the Chippewa Indians in council. The names of Ben L. Fairbanks, Theodore H. Beaulieu, the father of Frank D. Beaulieu, and others of the Fairbanks and Beaulieu families, who are mixed bloods belonging to the Chippewa Indians of Lake Superior, are shown to be on the rolls of the White Earth Reservation.

The report of Thomas G. Shearman, former assistant attorney, Department of the Interior, in the investigation of the enrollment of certain mixed blood Chippewa Indians on the White Earth Reservation in Minnesota, submitted December 11, 1913, page 12, shows that they or their direct line ancestors applied for and received certificates of identity (afterwards called "Chippewa-half-breed scrip") under article 2 of the said treaty of 1854, which were issued to them by the department upon their submission of "statutory evidence" (Rec., p. 322); that they were mixed bloods belonging to the Chippewas of Lake Superior as required by the treaty (Rec., pp. 327 ff.), and upon which certificates of "scrip" land was subsequently patented to them by power of attorney (Rec., pp. 329 ff.); that no intermarriage with any Mississippi Chippewa has been entered into by any of such ancestors since said certificates of identity was applied for and received; and that such marriages as said ancestors have entered into have been with either white men or women or with the Indians similarly shown to have been Lake Superior Chippewas (Rec., pp. 19 to 23, inclusive, and 327 to 389, inclusive).

That the act of January 14, 1899, providing for an agreement between the United States and certain bands of Chippewa Indians in Minnesota with reference to the removals to the White Earth Reservation contemplated that only Indians belonging to such bands or tribes of Chippewa Indians as had title in and to reservations in Minnesota should enter into agreement.

That the individuals named in the list belonged to no such band or tribe of Chippewa Indians as was mentioned in said act of January 14, 1899. Neither they nor their ancestors belonged to the White Earth Band, where they or their ancestors were residing and improperly drawing annuities as Mississippi Chippewas, while in fact they were Lake Superior mixed bloods who had never been members of the Mississippi tribe, either by adoption or intermarriage, nor of the Fond du Lac, Grand Portage, or Bois Fort Band in whose reservations at the time of said act they had no title or interest whatever; that the persons named in said list are mixed bloods belonging to the Chippewas of Lake Superior; that they are intruders upon the White Earth Reservation, and that they are and always have been without any right to share in the benefits and advantages incident to membership in the Chippewa Indian bands belonging to said reservation. This present legislative committee is directed by the general council to procure the removal from the rolls of the Chippewa Indians of Minnesota the names of these parties having no rights whatever upon the White Earth Indian rolls.

In our former statement we covered some of the operations of these men in the Chippewa country last year in attempting to perpetrate frauds upon the Indians, and there seems to be no limit to their activities and schemes to which they will resort to accomplish them. As an illustration we cite the provisions made in a treaty with the Chippewas of the Mississippi March 19, 1867 (16 Stat., 719), ratified April 8, 1867, which provides in part as follows:

"No part of the annuities provided in this or any former treaty of the Chippewas of the Mississippi Bands shall be paid to any half breed or mixed blood excepting those who actually live with their people upon one of the reservations among the Chippewa Indians."

This provision was inserted into the treaty by our Chief Hole in the Day for the particular purpose of excluding those mixed bloods from obtaining allotments upon the White Earth Reservation and automatically removing their names from the annuity rolls of the Mississippi Band.

On account of the objections of Hole in the Day and his band of Indians to the mixed bloods his murder is said to have been procured by Clement H.

Beaulieu, sr., and certain confederates who are said to be the ancestors or relatives of Benjamin L. Fairbanks and others. Referring to the report of Thomas G. Shearman, page 25, it says:

"There is testimony to the effect that Hole in the Day enrolled some of his mixed-blood friends in this way so that they would get annuity payments, but refused to allow them to share in allotments on the White Earth Reservation (rec., pp. 155, 241, 254); also that after his assassination in 1868 the mixed bloods 'spilled into' the White Earth Reservation (rec., p. 84), whereas before that they were unable to go there in any considerable numbers. (Rec., pp. 83, 93, 109, 139, 155, 164.) The old Indians who were witnesses at the hearing were unanimous in saying that if a council had been called for the purpose of adopting these mixed bloods into the tribe they would have protested against it. (Rec., pp. 61, 95, 191, 203, and 212.) In spite of these facts, however, at the time of the so-called Rice agreement in 1889, these men or their ancestors had become regular annuitants as Mississippi Indians on the agency books of the White Earth Reservation."

Those mixed bloods who are led by Morrison, Fairbanks, and Beaulieu framed up a fake council, which they held at Bemidji, Minn., beginning July 9, 1918, and which was composed almost entirely of their relatives and friends by blood and intermarriage, and which was not attended by any full-blood Indians belonging to the Chippewa Tribe in Minnesota. The proceedings of that meeting, which the Indians do not recognize as a council, show that at White Earth, the second Tuesday in June, 1918, a local council was held to select delegates for the Morrison meeting and that at that local council 63 delegates were selected from among their relatives and friends in and about the village of White Earth, Minn., to attend the Morrison meeting to be held at Bemidji beginning July 9, 1918; that not one-half of the delegates elected at the council in June at White Earth attended the Morrison meeting at Bemidji beginning July 9, because it is alleged those who did not go said they had no sympathy with the manner in which those delegates were selected as they considered it to be irregular and contrary to the rules of the council. After they commenced their meeting at Bemidji, they went out into the streets and requested any Indian belonging to Minnesota, no matter who or where he lived, to go into their meeting, and they were seated as regularly elected delegates at the local councils, and their votes were counted as such upon all matters discussed by them. They also seated three women alleged to be the wives or relatives of some of those mixed bloods who had not been elected at the local council. Their proceedings show they had altogether 95 delegates. Deducting therefrom all of those who were seated and not properly elected as delegates by the local councils, numbering about 49, would leave 46 delegates whom they could claim to have been elected at any local council.

The law of the general council is that the representation shall be one delegate for every 100 Indians in population; that the village of white Earth does not exceed 400 in population; therefore the local council of White Earth is entitled to elect only four delegates to the general council. All of those people who were elected at the local council at White Earth, therefore, to attend the Morrison meeting in excess of four were irregularly and illegally elected. No other delegates were elected to attend the Morrison meeting from any of the reservations in Minnesota excepting the Fond du Lac Reservation, where John Arten, Charlie Jackson, John Laundry, and Henry La Prairie were elected by about 10 in the council held on the Fond du Lac Reservation. Consequently there were but eight delegates who attended the Morrison meeting who can have any claim to have been properly elected. However, Morrison, Fairbanks, and Beaulieu were all removed from office by a general council of the Chippewa Indians held on the 25th day of April, 1918, at Ball Club, Minn., on two specific charges of attempting to defraud the Chippewa Indians of Minnesota.

These present delegates, comprising James I. Coffey, Edward M. Wilson, Charles A. Wakefield, Frank Smith, Wah-be-zhay-sheence, Sam Tonce, Benjamin Caswell, and William Lufkins were elected as the legislative committee by 112 delegates, comprising each band of Indians residing on each of the Chippewa reservations in Minnesota, said delegates having been regularly elected.

As detailed in our statement submitted January 10, that exemplifies the methods used by these White Earth mixed bloods in an effort to obtain any claim at all as representing any of the Indians in Minnesota, and their evident

purpose in all of their transactions is to defraud the Indians in every way and under every method they can make available for that purpose.

We ask particular attention to the fact that the general council of the Chippewa Indians held on July 9, 1918, ratified the action of the Chippewa Council of April 25, 1918, in removing from office John G. Morrison as president and Paul H. Beaulieu as secretary of the general council, and Ben L. Fairbanks, Henry W. Warren, and John W. Carl as members of the legislative committee, upon two specific charges of attempting to defraud the Chippewa Indians. This legislative committee is properly authorized by the general council of the Chippewa Indians of Minnesota to represent said Indians and said general council, and the said Ben L. Fairbanks, Paul H. Beaulieu, John W. Carl, and John Arten have no authority to represent any Indians other than themselves.

Referring to the remark made by Frank D. Beaulieu before your committee yesterday in relation to the conviction of James I. Coffey for libel by complaint of Ben L. Fairbanks in May, 1918, this statement of Mr. Beaulieu is misleading, and the facts are that a conviction for libel was obtained through an improper selection of the jury in the municipal court where the case was tried at Detroit, which court was composed exclusively of the friends and associates of Ben L. Fairbanks in the so-called "White Earth Indian Allotment Land Frauds." These gentlemen evidently had become prejudiced against Indians in general, for the statements of Coffey were abundantly sustained by the evidence of Indians in the court at the trial. The jury's verdict was conclusively to be contrary to the evidence, whereupon an appeal was taken to the district court by Mr. Coffey and there when the time came for trial the complaint was withdrawn by the State and the case dropped, thereby admitting that the statements made by Coffey were true.

Another similar case complained of by John G. Morrison on almost the specific charge was not sustained by the jury, and therefore a dismissal had.

This legislative committee desires to particularly emphasize the fact that there is great necessity of the Chippewa Reservations of Minnesota for continuing the boarding and day schools for the education of the Chippewa Indian children, a large number of whom would not have any school facilities whatsoever if these schools were abolished, and means should certainly be provided to continue these schools and to make them better.

Attention is further invited to the fact that some of these Indians appearing before your committee, misrepresenting themselves as representing the Chippewa Indians, are in fact the persons who were engaged in land graft and defrauding the White Earth Indians, not only their mixed-blood brethren but the full bloods and minors, out of their lands and allotments. We refer particularly to John Carl and Ben Fairbanks, their dealings being shown in the report of Inspector Linnen, pages 451 to 460, inclusive.

We have the honor to be, respectfully,

JAMES J. COFFEY,

*President of the General Council of the Chippewa Indians of Minnesota,
Ex officio Member of the Legislative Committee.*

EDWARD M. WILSON,

*Secretary of the General Council of the Chippewa Indians of Minnesota,
Ex officio Member of the Legislative Committee.*

CHAS. A. WAKEFIELD,

FRANK SMITH,

SAM TONCE,

WAH-BE-ZHAY (his x mark) SHEENCE,

BENJAMIN CASWELL,

*Members of the Legislative Committee of the General Council of the
Chippewa Indians of Minnesota.*

I do hereby certify that I have interpreted the foregoing statement to the members of this legislative committee who do not understand the English language, and that they have indicated that they fully understand all of the matters stated therein.

WILLIAM LUFKINS, *Interpreter.*

SUPPLEMENTAL STATEMENT OF EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS RE- GARDING CHIPPEWA MATTERS.

We have set out in detail in the printed hearings before the House Indian Committee all expenditures of Chippewa Indian funds. The Indian Office has had authority of Congress for the expenditure of these funds, and in this connection attention is invited to the items carried in the Indian appropriation acts, as well as section 7 of the act of January 14, 1889 (25 Stat., 645), which reads as follows:

"That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of five per centum per annum, payable annually for the period of fifty years, after the allotments provided for in this act have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in manner following: One-half of said interest shall, during the said period of fifty years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said fifty years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding five per centum thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of ninety thousand dollars annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of three million dollars, less any actual interest that may in the meantime accrue from accumulations of said permanent fund; the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live-stock, teams, farming implements, and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest, in cash; and whenever said permanent fund shall exceed the sum of three million dollars the United States shall be fully reimbursed out of such excess for all the advances of interest made as herein contemplated and other expenses hereunder."

The Supreme Court of the United States, in the case of *Lane et al. v. Morrison et al.* (246 U. S. Repts., 214), sustained the contention of the Indian Office and the Interior Department regarding the use of certain tribal funds. The full decision of the Supreme Court in that case is found on page 170 of the hearings on the Indian appropriation bill for the next fiscal year, and I quote the following paragraph from the decision of the Supreme Court in that case:

"It seems clear 'that civilization and self-support' among the Indians can not be promoted effectively by disconnected efforts, but must be accomplished, if at all, by definite, permanent plans operating through many years. And in view of the long-continued practice of Congress to provide funds for such continuous efforts by annual appropriations, the circumstances under which the joint resolution became law, and the studied incorporation therein of the language of former appropriation acts, we think the purpose was to authorize expenditure of \$160,000 during 1916, as had been done for 1915. A different construction might have occasioned disruption of well-ordered arrangements for advancing the Nation's wards, to the great detriment of all concerned, and

to such unfortunate consequences experienced legislators probably were not oblivious."

It is not believed that it can be successfully contended that Congress has not the authority to direct the expenditure of Chippewa Indian funds in such manner as is deemed proper for the best interests of the Chippewa Indians. In this connection attention is invited to the decision of the Supreme Court in the case of *Lone Wolf v. Hitchcock* (187 Sup. Ct. Repts., 553), the syllabus of which reads as follows:

"The provisions in article 12 of the Medicine Lodge Treaty of 1867 with the Kiowa and Comanche Indians to the effect that no treaty for the cession of any part of the reservation therein described, which may be held in common, shall be of any force or validity as against the Indians unless executed and signed by at least three-fourths of all the adult male Indians occupying the same, can not be adjudged to materially limit and qualify the controlling authority of Congress in respect to the care and protection of the Indians and to deprive Congress, in a possible emergency, when the necessity might be urgent for a partition and disposal of the tribal lands, of all power to act if the assent of three-fourths of all the male Indians could not be obtained. Congress has always exercised plenary authority over the tribal relation of the Indians and the power has always been deemed a political one not subject to be controlled by the courts.

"In view of the legislative power possessed by Congress over treaties with the Indians, and Indian tribal property, even if a subsequent agreement or treaty purporting to be signed by three-fourths of all the male Indians was not signed, and amendments to such subsequent treaty were not submitted to the Indians, as all these matters were solely within the domain of the legislative authority, the action of Congress is conclusive upon the courts.

"As the act of June 6, 1900, as to the disposition of these lands was enacted at a time when the tribal relations between the confederated tribes of the Kiowas, Comanches, and Apaches still existed, and that statute and the statutes supplementary thereto, dealt with the disposition of tribal property and purported to give an adequate consideration for the surplus lands not allotted among the Indians or reserved for their benefit, such legislation was constitutional, and this court will presume that Congress acted in perfect good faith and exercised its best judgment in the premises, and as Congress possessed full power in the matter, the judiciary can not question or inquire into the motives which prompted the enactment of such legislation."

RATIFICATION, ETC., OF ACT APPROVED JANUARY 14, 1889 (25 STATS., 643), BY VARIOUS BANDS OF CHIPPEWA INDIANS.

Correspondence and negotiations with the Chippewa Indians, pursuant to the provisions of the act approved January 14, 1889 (25 Stats., 642), appear in House Document No. 247, Fifty-first Congress, first session, including the report of the commission appointed by the President February 26, 1889, to negotiate with the various bands of Indians. The report of the Secretary of the Interior to the President dated January 30, 1890, and the transmission of the report to Congress by the President March 4, 1890.

On page 9 of this document is shown the total census of 8,304 Chippewa Indians, which included 2,178 male adults, 2,421 female adults, 3,565 minors, and 140 orphans. The report shows on pages 9 and 10 of the total male adults, namely, 2,178, that 1,884 signed their acceptance and consent to the act referred to, being over 86 per cent of such male adults and more than the requisite two-thirds over 18 years of age of the Indians belonging to and occupying the several reservations.

The consent of the Indians on the various reservations to the act in question appears in several exhibits.

Exhibit A, page 27, reads in part as follows:

We, the undersigned, being adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake Reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding the act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" (Public, No. 13), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act and have accepted and ratified the same, and do hereby accept and consent to and ratify the said

act and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of said Red Lake Reservation as it not embraced in the following-described boundaries, to wit: [Then follows a detailed description of the boundaries of the reservation.]

Witness our hands and seals hereto subscribed and affixed at the Old Red Lake Agency, on the Red Lake Reservation, in the State of Minnesota, this 8th day of July, 1889.

HENRY M. RICE, [SEAL.]
JOSEPH B. WHITING, [SEAL.]
Commission.

B. P. SHULER,
United States Indian Agent.
W. C. HUBBELL,
Secretary of the Commission.

Then follows the names of 247 Indians, with the following certificate:

We hereby certify that the foregoing instrument was fully interpreted and explained to the Indians of the Red Lake Reservation whose names are subscribed and affixed thereto, and that we were present and witnessed the signatures of each.

P. H. BEAULIEU,
Interpreter to the Commission.
M. C. ENGLISH,
Interpreter.
JOHN ENGLISH.
H. H. BEAULIEU.

RED LAKE RESERVATION, MINN., July 8, 1889.

We hereby certify that we were present and witnessed the signatures of the above-named Indians to the foregoing instrument.

A. R. JOURDAN.
J. E. PERRAULT.
G. A. MORRISON.
ROBERT FAIRBANKS.
W. R. SPEARS.

RED LAKE RESERVATION, MINN., July 8, 1889.

EXECUTIVE MANSION,
March 4, 1890.

This instrument in writing, negotiated with the Red Lake Bands of Chippewa Indians in the State of Minnesota, under and in pursuance of the act of Congress of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," wherein it is also provided "that all agreements therefor shall be approved by the President of the United States before taking effect," is hereby approved.

BENJ. HARRISON.

Similar exhibits from B to L, inclusive, pertaining to other reservations, follow (pp. 32-63).

STATEMENT OF COMMISSIONER RICE, JULY 17, 1889, REGARDING TRUST FUNDS OF INDIANS.

The following appears on page 86 of the document referred to in a statement by Commissioner Rice:

"That portion of the act making provision for the sale of your lands seems to be well guarded. None of your pine timber can be sold for less than \$3 per thousand feet, and if the examiners say it is worth more, it can not be sold for less than the price they fix. It provides that all money received from the sale shall be placed in the Treasury and shall bear interest at 5 per cent, which shall be paid to you annually. Three-fourths of this interest is to be paid to you in money and one-fourth is to be devoted exclusively to the establishment of free schools. The amount of interest, of course, increases as the sales of your lands increase.

"At the end of fifty years the principal is to be divided equally among those who shall be then living. To provide for the breaking of land, building of

houses, purchasing of cattle and horses, and everything of that kind that you may need for your advancement, there is a clause providing that Congress may in its discretion from time to time during the said fifty years appropriate for the purpose of promoting civilization and self-support among the Indians a portion of said principal sum, not exceeding 5 per cent thereof. In case of the failure of crops or any unforeseen misfortune, here is a storehouse of money to be drawn upon for your wants. Of this money you receive none until some of your lands shall have been sold, but in the meantime that you shall not want there is \$90,000 advanced to you, to be paid yearly in advance, and three-fourths of it for the first five years may be expended in procuring seed, farming implements, etc. This is to be expended for the benefit of such as desire to engage in farming; but it does not come out of the general fund; it comes out of each one's share. The rest will be paid in money, and those who wish all money will receive it. The \$90,000 annually is entirely apart from the other money and will be received in addition to the interest upon whatever money may be in the Treasury every year until that amount shall reach \$3,000,000 and enough besides to reimburse the Government for all expenses."

Some of the representatives of the Indians have contended that the expression of Commissioner Rice, namely, "in case of the failure of crops or any unforeseen misfortune, there is a storehouse of money to be drawn upon for your wants," meant that the principal fund should not be drawn upon *except* in case of failure of crops or any unforeseen misfortune.

The act has never been so construed by the Indian Office or the Interior Department, which is evidenced by the annual estimates submitted, or even by Congress itself in enacting legislation from year to year, as indicated by the language of the several appropriation acts made yearly in advance. Therefore, under no circumstances could the "failure of crops or any unforeseen misfortune" have been contemplated when the legislation provided annually from 1890 to the present time was under consideration.

As to the acceptance and ratification of the act referred to by the various bands of White Earth Indians, see Exhibits B to H, pages 32 to 58, inclusive.

On page 117 of the above document the following appears as to the White Earth Band of Indians:

"The Indians then proceeded to give their signatures to the agreement under the act of Congress—every male adult of the band signed it—after which the council was finally adjourned, the census of the band having been previously taken and verified."

From 1890 to 1911, inclusive, Congress made annual reimbursable appropriations from the public funds of the Treasury for the relief and civilization of the Indians of Minnesota, pursuant to the provisions of the act of January 14, 1889, supra. In 1911 the trust funds of the Indians accruing from the sale of land and timber was sufficiently large to make full reimbursement to the United States for all reimbursable expenditures in addition to a balance of approximately \$3,000,000 remaining to the credit of the tribe in the Treasury, as contemplated by the act. From 1912 to 1919, inclusive, Congress has made annual appropriations direct from the trust fund of the Indians, which have been expended for purposes similar to the expenditures made from the former reimbursable appropriations. The last reimbursable appropriation for 1911 amounted to \$150,000, but since the schools provided for annually have been established and large per capita payments have been made in recent years the individual Indian funds have reached a considerable sum and the work of supervision has consequently materially increased. The total amount of funds of the Chippewa Indians in Minnesota banks September 30 (House hearings, p. 423) amounts to \$1,628,859.36.

Section 7 of the act approved January 14, 1889, referred to provisions in part as follows:

"That Congress may in its discretion from time to time during said period of 50 years appropriate, for the purposes of promoting civilization and self-support among the said Indians, a portion of said principal sum not exceeding five per centum thereof."

There appears to be no question as to the authority of Congress to appropriate 5 per cent of the principal fund of the Indians for 1920, which would amount to \$290,246.95, but the estimates called for only \$160,000, or \$130,246.95 less than the maximum amount which may be appropriated under existing law.

Mr. Frank D. Beaulieu, in his statement before the committee, called attention to the appropriations at the following agencies,

which statement shows the population as well as the amount appropriated for agency purposes:

Agency.	Population.	Appropriation.
Indians at Fort Belknap Agency.....	1,208	\$20,000
Indians at Flathead Agency.....	2,426	20,000
Indians at Fort Peck Agency.....	2,039	30,000
Indians at Blackfeet Agency.....	2,773	50,000

Mr. Beaulieu attempted to draw the inference that we were expending a great deal more money in the Chippewa country per capita than at the agencies named. This statement of Mr. Beaulieu is clearly misleading for the reason that the appropriations to which he refers are the gratuity appropriations made for agency purposes and do not include all of the funds used at those agencies.

In order to make this matter perfectly clear, the following statement showing the amounts expended from public and tribal funds at the agencies and schools named during the fiscal year 1918, is herein given, these amounts being exclusive of the appropriations for irrigation purposes:

Blackfeet:	
Blackfeet agency	\$149,840.27
Blackfeet schools	37,814.31
Holy Family mission school.....	6,251.20
Total	193,906.78
Flathead:	
Flathead agency	66,738.14
Flathead schools.....	1,534.05
Total.....	68,272.19
Fort Belknap:	
Fort Belknap agency.....	90,846.75
Fort Belknap school.....	23,571.62
Total.....	114,418.37
Fort Peck:	
Fort Peck agency.....	87,179.06
Fort Peck school.....	30,363.22
Total	117,542.28

It was asserted in effect by Mr. F. D. Beaulieu that there was expended for administrative purposes for the Chippewa Indians of Minnesota during 1918, the sum of \$776,819.41. This sum, it is understood, included \$503,392.94, appearing on page 410 of the House hearings on the pending Indian appropriation bill, and \$273,426.47 on page 418 on the hearings. The first item includes the following sums shown in the recapitulation, page 410, which in no sense are administrative expenses:

Chippewa in Minnesota Fund:	
Roads	\$9,412.30
Annual celebrations.....	1,000.00
Councils and delegations (act Mar. 2, 1917)	2,380.31
Councils and delegations (act May 25, 1918)	6,649.23
Logging operations (act June 27, 1902)	10,383.20
Pro rata shares, refunds, etc.....	7,275.37
Interest on "Chippewa in Minnesota" fund (per capita payment to Indians)	213,854.32
Total	850,954.73

The second amount mentioned, namely, \$278,426.47 includes public, miscellaneous, and tribal funds, in addition to the amount shown in H. R. Dec. 1493, Sixty-fifth Congress, third session, the principal item of which is \$126,292.92, paid per capita to the Red Lake Indians under existing law.

The several amounts expended and shown in the recapitulation, page 418, are analyzed fully on pages 412 to 417, inclusive, on the hearings.

From the principal fund of the Chippewa Indians, authorized by the act approved March 2, 1917 (39 Stats., 977), there was expended during the fiscal year 1918 the following sums for educational purposes:

Fond du Lac School.....	\$1,100.1
Leech Lake School.....	8,925.
Red Lake School.....	9,269.
Vermillion Lake School.....	11,193.
White Earth School.....	25,159.
Mission School (Red Lake).....	6,187
	61,842

The above act authorized the sum of \$60,000 of the principal fund of Chippewa Indians, specifically for employees, of which amount the sum \$54,956.20 was expended.

Amount expended for school purposes for the Chippewa Indians for 1918

"Chippewa in Minnesota" fund (Civilization and self-support), 1918.....	\$61.8
Interest on "Chippewa in Minnesota" fund.....	86.4
Relief of distress and prevention, etc., of disease among Indians, 1918.....	.
Purchase and transportation of Indian supplies, 1918.....	1.
Indian School and agency buildings, 1918.....	18.
Indian School, support, 1918.....	5.
Additional support, Indian school, 1918.....	2.
Indian school transportation, 1918.....	.
Increase of compensation, Indian service, 1918.....	.
Indian moneys, promotion of labor, Indians.....	1
Indian moneys, promotion of labor, school.....	.
Miscellaneous receipts, class 4, school.....	.
Support of Chippewas of the Mississippi, Minnesota, 1918.....	.
Total.....	18

As the one-fourth interest on the principal fund of the Chippewa amounts to approximately \$75,000 annually, it will be seen from the above that more than \$100,000 was required during 1918 from other funds for school purposes.

SCHOOL FACILITIES FOR CHIPPEWA CHILDREN.

- Reports received for the fiscal year 1918 show an Indian population of 11,839, distributed within the Fond du Lac, Grand Portage, Leech Lake, Red Lake, and White Earth jurisdictions. Of these there are 1,839 eligible children of school age. Of this number there were reported for the year 1918 738 eligible children not in school. In the Government Indian boarding schools were enrolled 780; in day schools, 247; in non-reservation schools, 269; and in public schools, 941. 386 had been sent to boarding schools, including approximately 128 at the Vermillion School. The figures given will be found to vary from year to year month to month, but are believed to be approximately correct.

There are known to be 38 public schools within these several jurisdictions with an enrollment of Indian children as shown, but it is apparent that there are not sufficient public schools for even the majority of Chippewa children to attend and the Government schools are at present maintaining only those who can not enter public schools. It has been the policy to encourage education of these children in public schools as rapidly as circumstances permit.

The school curriculum embodied in the present course of study offers industrial as well as academic training and the former can not, of course, be given to any appreciable extent either in a day school or a public school, but only in boarding schools having farms and equipment and teachers employed to conduct this instruction.

Since the report of Messrs. Linnen and Ellis upon the conditions in the Chippewa country, the following administrative changes have been made at the Chippewa Agencies:

Supt. Hinton, at White Earth, has been transferred to the position of examiner of inheritance; Supt. Dickens, at Red Lake, has been appointed to succeed him, but has not yet entered on duty.

A new principal has been appointed at the White Earth School and entered on duty some time back.

The Nett Lake and Grand Portage jurisdictions have been placed under the Fond du Lac superintendency. The change, however, has not gone into effect pending the placing of a superintendents at Nett Lake and Grand Portage.

The day school at Elbow Lake, on the White Earth Reservation, has been discontinued.

E. D. Porter, overseer at Big Bend, on the White Earth Reservation, has been transferred and the position abolished.

Two positions of forest guard on the Fond du Lac Reservation have been abolished.

Guy H. Houchen, farmer at the Fond du Lac Agency, has been transferred and the position abolished.

Glenn E. Judy, farmer at Bena, on the Leech Lake Reservation, has been transferred and the position abolished.

The farmer located at Cass Lake on the Leech Lake Reservation, has been transferred and the position abolished.

The position of field matron on the White Earth Reservation, held by Mrs. Sophy Agnes, has been dispensed with.

The two day schools on the Fond du Lac Reservation were discontinued at the close of last session.

Dr. A. C. Merriam, physician at Red Lake, has been transferred to another reservation, and will report for duty as soon as his successor can be appointed.

The position of dining-room matron at the White Earth Boarding School has been abolished and the employee transferred.

James W. Cross, farmer at the White Earth Boarding School, has been transferred, with a view to appointing a more capable man.

The matter of disposing of two teams of horses on the Fond du Lac Reservation and the transfer of a stallion there to the Red Lake Reservation has been taken up with the superintendent.

Provision has been made for the appointment of Rev. F. H. Paquette as interpreter on the Nett Lake Reservation, which action will be taken when the consolidation becomes effective.

The matter of disposing of one team of horses at the White Earth Boarding School and several horses at the White Earth Agency has been taken up with the superintendent.

Steps have been taken to provide additional supplies and subsistence for the increased enrollment of pupils at the Cross Lake Boarding School on the Red Lake Reservation, a sufficient amount not having been estimated for by the superintendent.

The matter of providing adequate fire escapes at the Mission School, White Earth, has been taken up with the missionaries in charge, through Supt. Hinton.

While the inspection of the Chippewa country was in progress the office received a letter from Webster Ballinger, quoting a letter from Frank D. Beaulieu, of White Earth, Minn., complaining of the unfairness of the investigation. Commissioner Sells, under date of August 17, 1918, wrote Inspector Linnen the following letter:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 17, 1918.

MY DEAR MR. LINNEN: I am inclosing herewith a communication from Mr. Webster Ballinger, quoting from a letter of Frank D. Beaulieu, of White Earth, Minn., alleging unfairness in the method of your conduct of the investigation.

Please carefully read the letter from Mr. Ballinger, and particularly the quotation from Mr. Beaulieu's letter to him, and be sure that the investigation is

so conducted as to in no manner justify their charges. I am very anxious that it shall be both thorough and fair-minded.

Please acknowledge receipt of this letter.

Sincerely, yours,

CATO SELLS,
Commissioner.

Mr. E. B. LINNEN,
*Chief Inspector,
Onigum, Minn.*

The following is the reply of Messrs. Linnen and Ellis to the above letter from Commissioner Sells:

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Red Lake, Minn., August 23, 1918.

HON. CATO SELLS,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR MR. COMMISSIONER: We have the honor to acknowledge receipt of your letter of August 17, 1918, inclosing a letter dated Washington, D. C., August 12, 1918, addressed to Assistant Secretary Hopkins by Webster Ballinger, attorney.

It appears that said Ballinger's letter is suggested by a communication he received from one Frank D. Beaulieu, of White Earth, wherein Mr. Beaulieu states many untruths.

This letter of Ballinger's is part of a propaganda in effect by certain of the White Earth mixed bloods, whose object is to continually misrepresent and to keep matters stirred up in the Indian Office as much as possible. There is a concerted effort being made on their part to bring before the department complaints, a large majority of which have no foundation. They desire to harass, worry, and bother the Indian Office and department and their field employees, and to continually stir up trouble in order to procure their wishes, which are a congressional investigation, and the abolishment of the Indian Bureau, all agencies, schools, hospitals, and Government control on the Chippewa reservations.

This Frank D. Beaulieu whom Attorney Ballinger quotes is an educated mixed blood, educated at the expense of the Government and the Chippewa Tribe, who now would deprive other young Chippewas of the benefits of an education which he has received. He has never attended one of our meetings, and has persistently and consistently advised the Indians against attending our meetings or coming to see us. The only time we have met him was on an occasion in May when we attended the trial of James I. Coffey, as spectators, at Detroit, Minn., at which place this Frank Beaulieu was present, and where he took occasion to publicly insult Supervisor Wadsworth and myself, asking us what business we had there and what our purpose was, etc.

He has sent some of his emissaries, mixed bloods of White Earth, on a couple of occasions to attend some of our meetings, his purpose being to cause annoyance and trouble. Some of these mixed bloods asked that they be represented by an attorney. We very well knew that they were his mouthpieces.

He states that our meetings were attended by 15 or 20 warehousemen, meaning to insinuate some of the poorer Indians who receive rations. It is an insult to the full-blood Indians and to his tribe as a whole. Our meetings have been attended by anywhere from 50 to 200 persons, and we have held many of such. When we conclude this investigation it will be shown that substantially all of these Indians are opposed to this small faction of White Earth mixed bloods who have been manipulating and controlling matters in their own selfish interests and will show that they oppose the action of the general council and of the so-called legislative committee which was in Washington last winter, and that they denounce them and their acts.

Our meetings have been attended by not only the full bloods, but by Indian ministers, Rev. Kah-ah-sed, Rev. Wright, and Rev. Smith; Julius Brown, chairman of the executive committee of the general council, interpreter of the general council, and chairman of the local council of the White Earth Reservation, who now denounces these people; John Broker, a member of the legislative committee, who signed the charges and who now denounces the other members of the legislative committee; such educated Indians as Ben Caswell, Peter Graves, James I. Coffey, and numerous others, all of whom have testified before us under oath, as does every Indian who makes any statement.

As a result of our investigation it will be shown that Webster Ballinger has prepared in Washington for this legislative committee the complaints which they have filed, some of which were taken out of his own head.

This propaganda to harrass, annoy, misrepresent, and cause continual trouble to the Indian Office is a part of their program and concerted effort to accomplish the end they have in view, which is for their own selfish interests, to complete the robbery and destruction of their tribe in direct opposition to the constructive plans of the Government.

We might add that one of the things which rankles in the mind of this Frank D. Beaulieu is that recently three full-blood Indian allotments have been taken away from his father, Theodore Beaulieu, by the Department of Justice, who has also been compelled to pay \$1,600 on two other full-blood allotments, out of which he had cheated and defrauded the full-blood Indians, which is but a drop in the bucket compared to the numerous frauds in which he has been implicated. The evidence shows that he has sold two of these allotments which the Government has recovered for \$2,000 each and has mortgaged the other for about \$1,000, so that he has now \$5,000 to make good on these tracts, having warranted the title to these lands which he sold.

It might also be pertinent to here state that John Carl, one of the members of the legislative committee, has defrauded at least 16 Indians out of their allotments, as shown by the records of the Department of Justice; that he has even defrauded his own mother, who is now on the ration list; and that Henry Warren, another member of the legislative committee, was removed from the Government service at Bena for accepting bribes and misappropriating lease moneys.

Our meetings are widely advertised and public notice given by notices posted at least a week in advance of the hearings at each place. Every enrolled member of the Chippewa tribe is asked to be present and make any statements they see fit. All statements are taken under oath, and we only ask for the truth and the facts. The misrepresentations made by Frank D. Beaulieu are unworthy of any serious consideration, as this man is untruthful, unfair, and unjust to his tribe. He is simply a political trickster who is now trying to follow in the footsteps of his uncle, Gus Beaulieu. We have the honor to remain,

Very cordially, yours,

E. B. LINNEN,
Chief Inspector.
E. L. ELLIS,
Special Supervisor.

P. S.—Webster Ballinger refers to criticisms that appeared in the press of Minnesota. He undoubtedly refers to the Tomahawk, a scurrilous, libelous sheet, unworthy of the name of a newspaper, which is published at White Earth, Minn., and edited by Theodore Beaulieu, Frank D. Beaulieu's father, mentioned herein in connection with land frauds.

This paper was founded by Gus Beaulieu, and has ever been used to misrepresent the truth and uphold the grafters, to denounce the department and all of its officers, and is the mouthpiece of an unscrupulous gang of mixed bloods at White Earth, who are largely responsible for the many wrongs that have befallen the Indian on that reservation.

We inclose a copy of one of our notices for your information, being identical with all of those we have posted on every reservation previous to every hearing.

We return herewith Webster Ballinger's letter, which was transmitted to us by your letter of August 17.

E. B. LINNEN.
L. ELLIS.

There was considerable discussion before the House Indian Committee regarding the White Earth rolls. In this connection attention is invited to the legislation contained in the Indian appropriation act approved June 30, 1913 (38 Stat. L., p. 88), which reads as follows:

"That upon the passage of this act the senior judge of the United States District Court for the District of Minnesota shall appoint a commission consisting of two persons, one of whom shall be selected by the Department of Justice and the other shall be a citizen of the State of Minnesota, who shall proceed forthwith, under the direction of the said United States District Court, to make a roll of the Chippewa Indians allotted within the White Earth Reservation in the State of Minnesota. The commission shall qualify by taking an oath of office and by giving a bond to the United States in the sum of \$5,000 con-

ditioned upon the faithful performance of their duties. Should a vacancy in said commission occur, from any cause, the court shall appoint some suitable person to fill such vacancy: *Provided*, That the said commission shall always be constituted as above set forth.

"That the roll herein provided for shall be made in triplicate and shall show the allotment number or numbers, together with the description of the property allotted, and the name, age, sex, and quantum of Chippewa Indian blood of the allottees as near as it reasonably can be ascertained. The roll shall also state whether the person named is living or dead, and, if dead, the approximate date of death shall be stated when it can be ascertained, together with the age of such person at death as near as practicable. No allotment nor the allottee thereof shall be enrolled where there is a suit now pending, or hereafter commences prior to the completion of such roll, to cancel any conveyance of such allotment until such suit has been finally determined.

"That from time to time copies of such roll, as far as then prepared by the commission, shall be posted in the agency offices at White Earth and at Pine Point, and in the post offices at Beaulieu, Mahnomen, Waubun, Ogema, and Callaway, on the White Earth Reservation, and a copy thereof shall be transmitted to the Secretary of the Interior. At the same time, if the commission so desires, notice may be given, in the manner hereinafter provided for, of the intention of the commission to apply to the said United States district court for its approval of that portion of the roll so prepared and posted. Any person having an interest therein shall be entitled to be heard touching the status of any person named on said roll. The portion of the roll, when so approved, shall be filed, one copy with the clerk of the said United States district court, one copy at the agency office at White Earth, and one copy with the Secretary of the Interior. When the roll so made is completed it shall be presented to the said district court for final approval. If the commissioners disagree as to the proper status of any allottee, they shall submit the question to the court for determination, upon such final presentation of the roll. At least three weeks prior to presenting the same for final approval, the commission shall cause notice of the time and place of presenting the same to be published in three newspapers of general circulation upon and around the White Earth Reservation and in one daily newspaper in each of the cities of Saint Paul, Minneapolis, and Duluth, and shall cause copies of such notice to be posed in the agency offices at White Earth and Pine Point, and in the post offices at Beaulieu, Mahnomen, Ogema, and Callaway, on the White Earth Reservation, and shall transmit a copy thereof to the Secretary of the Interior. Any person interested therein may be heard upon such final application touching the status of any person named upon such roll whose status has not already been passed upon by the court. The court shall receive and consider all evidence submitted touching disputed cases and shall fix the status of every such person in accordance with the facts as the court may find them to be. When the commission has completed the roll and all disputed cases have been determined by the court an order or decree of final approval shall be made and engrossed upon the roll.

"The roll so made and finally approved by the court, as aforesaid, shall be filed, one copy with the clerk of said court, one copy at the agency office at White Earth, and one copy with the Secretary of the Interior. The copy of the roll filed at the agency office at White Earth shall at all times be open to public inspection, and copies thereof may be made and filed for record with the registers of deeds of the various counties in which the lands described therein are situated, and such roll, when so made, approved, and filed, shall be final and conclusive as to the facts stated therein, and shall be deemed a record of the United States District Court for the District of Minnesota, and entitled to be received in evidence as such: *Provided, however*, That appeals as in other cases of final decrees in equity in said court may be taken by any party in interest: *And provided further*, That the determination of status, as provided herein, shall not, in the case of any allottee upon the roll so made, be taken to be a determination of the right of such allottee to have or to have had an allotment on the said reservation, or to be enrolled on the tribal rolls thereof.

That the commission is hereby empowered to employ such clerical and other assistance and to incur such expense, including traveling expenses, as may be required in connection with the work of enrollment, and the said district court shall fix the compensation to be received by the commissioners and such persons as they may employ. The sum of \$5,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying this act into effect."

I have received from Peter Graves, a Red Lake Indian, the following letter, together with the resolutions of the general council of the Red Lake band of Chippewa Indians. Inasmuch as the Red Lake Indians are vitally interested in Chippewa Indian affairs, it is believed that the views of these Indians should receive careful attention and that their wishes should be taken into consideration in the enactment of legislation regarding Chippewa matters.

LEECH LAKE INDIAN AGENCY,
Onigum, Minn., January 7, 1919.

Hon. E. B. Meritt,
Assistant Commissioner, Washington, D. C.

MY DEAR MR. MERITT: I am inclosing a copy of the proceedings of the Red Lake Indian Council under date of December 27, 1918, for your use and reference. I am sending this copy to you personally under suggestion made to me by Mr. E. B. Linnen, chief inspector, Indian Service. The Red Lake Indian Council is aware of the big expense in appointing too many delegates to represent them, and for that reason my appointment to proceed at once was made, so that the other five appointed delegates would not have to make a lengthy stay when called at the right time. The great majority of the Red Lake Indians are upholding their council, but there are a certain element that are willing to be dictated to by the so-called general council of the Minnesota Chippewas. However, that element would not dare to come before the Red Lake Indian Council and advise the council, for they are in the minority and known to be willing tools of the few mixed-bloods that control the general council of the Minnesota Chippewas; but they have been secretly circulating a petition I have been advised among the Red Lake Indians, the purports of which is unknown to me, but I presume which will be used to discredit the Red Lake Indian council before Congress. I hope the Commissioner of Indian Affairs, with your assistance, will arrange matters to the satisfaction of the Red Lake Indians, as expressed in their council proceedings.

Very sincerely, yours,

PETER GRAVES.

PROCEEDINGS OF THE GENERAL COUNCIL OF THE RED LAKE BAND OF CHIPPEWA INDIANS.

RED LAKE, MINN., December 27, 1918.

In accordance with a notice issued for the Red Lake Indian Council to meet in session this 27th day of December, 1918, Joseph B. Jourdain, chairman of the Red Lake Indian Council, called the council to order at 3 p. m., with 29 members present; and the matter of adjournment of the council and its meeting to take place at Ponemah, Minn., was taken up; motion was made by Way-oon-ding that the council adjourn, and resume its sitting at Ponemah, Minn., on the afternoon of the following day, the 28th, and, being duly seconded, a vote was taken, the vote resulting in 26 for and 2 against. The chairman then declared the council adjourned at 5 p. m., and its sitting to be at Ponemah, Minn., in the afternoon of the following day.

PONEMAH, MINN., December 28, 1918.

The chairman of the council, Joseph B. Jourdain, called the council to order at 7 p. m., with 41 members of the council present; and the council began its session by considering resolution No. 1.

RESOLUTION NO. 1.

Be, and it is hereby resolved, That the communication addressed by the Red Lake delegates to the general council of the Minnesota Chippewas, in session, Bemidji, Minn., dated July 13, 1918, reading as follows:

"This communication to your council, now in session in the city of Bemidji, Minn., is to advise your council that the Red Lake Band of Chippewa Indians of the State of Minnesota, through their delegates, who have signed this notice, that they have decided to sever their relations to your council and do not further recognize your said council as a medium for the transaction of their tribal matters and affairs before the Indian Department and the Congress of the United States. They without doubt having more confidence for justice

and fair play from the Government than they would expect from your council, which is controlled by men who are fully competent as white men, and who seem to ignore the real conditions of lesser competent Indians of the different bands of the Minnesota Chippewas, and who have assumed to take advantage of the Red Lake band by attempting to have Congress enact laws inconsistent to the present laws enjoyed by the Red Lake band. We, the undersigned, therefore, without any regard whatsoever for ourselves and in behalf of the Red Lake band, have caused this to be a matter of written record for your information, and that of the protector and refuge of the Red Lake Indians—the United States Government.

“ Respectfully,

“ NATHAN J. HEAD.

“ PETER SITTING.

“ JOHN ENGLISH.

“ JOS. C. ROY.

“ PETER GRAVES.

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

“ (Signed by thumb mark.)

PAY SHE GE SHIG.

AH JE DUM O.

JOSEPH JOURDAIN.

O DAH WAUNCE.

NO DIN.

KAY GWAY DUB E TUNG.

“ Witnesses to signatures by mark :

“ NATHAN J. HEAD.

“ PETER GRAVES.

“ One carbon copy to Secretary of the Interior and one to the Commissioner of Indian Affairs.”

which was approved by the general council of the Red Lake Band of Chippewa Indians in council assembled August 26, 27, and 28, 1918, at Red Lake, Minn., be incorporated in and form a part of the proceedings and records of said general council of the Red Lake Indians in its present session.

Motion was made and seconded that a vote be taken on the resolution for its adoption or rejection; the voting was had, and the resolution adopted by a vote of 41 for and no vote to the contrary.

RESOLUTION NO. 2.

Be it resolved by the Indians of the Red Lake Chippewa Band of Minnesota in council assembled at Red Lake, Minn., on August 27, 1918, That the Indians of said Red Lake Band and the general council of the Red Band of Chippewas respectfully petition the Congress of the United States, the honorable Secretary of the Interior, and the Commissioner of Indian Affairs, to have enacted into law an act of Congress providing for the disposition of the moneys and funds derived by said Red Lake Band of Chippewa Indians from sales of their timber, which moneys have been and are being deposited in the Treasury of the United States to the credit of said Red Lake Band of Chippewa Indians, the following provisions to be enacted into law:

That an act of Congress be passed authorizing a per capita payment to each and every enrolled member of the Red Lake Band of Chippewa Indians living on the 1st day of April of each year, said payment to be made in April of each year, beginning with the year 1920. of at least \$50 per capita to each enrolled member of said Red Lake Band of Chippewa Indians, said moneys to be paid out of any moneys received from the sale of the timber of the Red Lake Indians, either principal or interest, which is on deposit to their credit in the Treasury of the United States, or elsewhere, and providing further that the head of each family or guardian be authorized to receive the per capita moneys due the minor children, enrolled members of said tribe.

After a general discussion by the council, motion was made that resolution No. 2 be put to a vote by the council, and the motion being properly seconded a vote was taken by the council, resulting in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 3.

Be, and it is hereby, resolved, That the Congress of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs are re-

quested to make every effort to expend judiciously the moneys belonging to the Red Lake Band of Chippewa Indians; and where expenditures are contemplated which are in addition to those made in connection with the ordinary operation of the school and agency, that special estimates be prepared and submitted to the general council of the Red Lake Band of Chippewa Indians prior to the appropriation of funds, for their consideration and action.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 4.

Be, and it is hereby, resolved, That the Secretary of the Interior shall not confer allotments of land upon the Red Lake Indians until such time as said Indians, through their general counsel, make request for same.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 5.

Be, and it is hereby, resolved, That the Government of the United States, through the Indian Service, should continue its system of civilizing and caring for the Red Lake Band of Chippewa Indians by means of schools, hospitals, and agencies, in accordance with the stipulations of the existing acts of Congress pertaining to the Red Lake Band of Indians; that the salary of the physician supervising the Red Lake Agency Hospital be so increased and sufficient as to induce an expert physician to accept the position.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 6.

Be, and it is hereby resolved, In view of the fact that no material benefits are derived by the Chippewa Indians of Minnesota in general from the celebration held annually on the 14th at White Earth, Minn., that the appropriation for this purpose be discontinued.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 7.

Be, and it is hereby resolved, In view of the fact that the Red Lake Indians have progressed remarkably along agricultural lines, and each year for four years past have defrayed the expenses of an agricultural fair out of their own personal funds, that \$1,000 be appropriated out of the funds belonging to the Red Lake band to cover the expenses of this fair, as a further inducement to the Red Lake Indians to improve their agricultural possibilities.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 41 for and none to the contrary.

RESOLUTION NO. 8.

Be, and it is hereby resolved, Inasmuch as there is great necessity for a flour mill and power plant at Red Lake, Minn., to enable the Indians of the Red Lake Reservation to manufacture their own flour, and provide power therefor, which will materially reduce the high cost of living among these Indians, that Congress of the United States appropriate not exceeding \$15,000 from funds belonging to the Red Lake band of Indians for such purpose, in accordance with the recommendation of the superintendent of the Red Lake Indian School, and a binder and thrashing machine be purchased for the Cross Lake district.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection; the result of the vote taken

was for the adoption of the resolution, the vote being 41 for and none to the contrary.

Motion was made and seconded that the council adjourn for the day and meet again the following day, the 28th. The chairman of the council declared the adjournment, it being 10 p. m., and the council to resume its sitting as early as possible the next day.

PONEMAH, MINN., December 30, 1918.

The chairman of the council, Joseph B. Jourdain, called the council to order at 4 p. m.

RESOLUTION NO. 9.

Be, and it is hereby, resolved, That the Secretary of the Interior is requested not, until such time as allotments of land are to be made to the Red Lake Indians, to permit the establishment of town sites on the Red Lake Reservation.

After a general discussion by the council, motion was made and seconded that a vote be taken for its adoption or rejection. The vote resulted in its adoption, 41 voting for and none to the contrary.

RESOLUTION NO. 10.

Be, and it is hereby, resolved, That the Secretary of the Interior and the Commissioner of Indian Affairs are petitioned to grant the superintendent of the Red Lake School authority to lease hay stumpage and pasturage lands not used by Indians in remote parts of the Red Lake Reservation, such leases not to exceed from one to two year periods, the provisions of such to be in accordance with the rules and regulations of the Indian Office governing the leasing of Indian lands for such purposes.

After a general discussion by the council and after having been rejected once, motion was again made to have the resolution recalled for further discussion. and, after a lengthy discussion, motion was made and seconded that a vote be taken for adoption or rejection, and the result of the vote was for the adoption of the resolution by 37 for and 1 against.

RESOLUTION NO. 11.

Be, and it is hereby, resolved, That the Secretary of the Interior and the Commissioner of Indian Affairs are petitioned to invest the funds of the Red Lake Band of Chippewa Indians, derived from the present logging operations, in liberty loan bonds in amounts to leave a reasonable sum to make the annual per capita payments that may be made and other contingent expenses in the logging operations, this investment to be for patriotic reasons, if in the best judgment of the Secretary of the Interior and the Commissioner of Indian Affairs such action would be considered beneficial for the Red Lake Indians.

After a general discussion by the council, motion was made and seconded, that vote be taken for its adoption or rejection; the vote resulted in its adoption by a vote of 40 for and none to the contrary.

RESOLUTION NO. 12.

Be, and it is hereby resolved, That the Secretary of the Interior and the Commissioner of Indian Affairs are requested to cause to be embodied in the Indian appropriation for the fiscal year 1920 a sum of \$1,000 to pay the salary of a bandmaster, and \$1,000 for the purchase of band instruments, the band instruments to be issued under reimbursable agreements to students; the funds so appropriated to be taken from moneys derived from logging operations on the Red Lake Indian Reservation, and in accordance with recommendations that have been made or may be made by the superintendent of the Red Lake Indian school.

After a general discussion by the council, motion was made and seconded, that vote be taken for its adoption or rejection; the vote taken resulted in its adoption by a vote of 40 for and none to the contrary.

Adjournment taken at 10 p. m. and to resume its session next day.

Council resumes its session 12.30 p. m. December 30, 1918.

RESOLUTION NO. 13.

Be, and it is hereby resolved, That the State fishery on the Red Lake Indian Reservation shall not use more than two pond nets at any one time during the fishing season of 1919, and no other party shall use any pond nets; one pond net to be set near the town of Redby, Minn., and the other pond net to be set near the Cross Lake Indian school, Ponemah, Minn. The Indians belonging on the Red Lake Indian Reservation shall make an effort to supply the demand for fish created by the State and the sale of same through said State fishery. No person not an enrolled member of the Red Lake Band of Chippewa Indians shall be allowed to take fish from Red Lake for sale.

After a general discussion by the council, motion was made and seconded that vote be taken for its adoption or rejection, and the vote resulted in its adoption by a vote of 39 for and 1 against.

RESOLUTION NO. 14.

Be, and it is hereby resolved, That, Paul H. Beaulieu, a member of the Red Lake Band of Chippewa Indians, now acting as secretary to the so-called general council of the Chippewas of Minnesota, does not possess any authority whatsoever from the Red Lake Indian council and does not represent the Red Lake Band.

After a general discussion by the council, motion was made and seconded that vote be taken for the adoption or rejection of the resolution. The vote taken resulted in its adoption by the vote of 41 for and none to the contrary.

Motion was made and seconded that appointment of six delegates to represent the Red Lake Band of Chippewa Indians before the proper officials of the department and the Congress of the United States at the city of Washington be taken up.

Peter Graves appointed as the chief delegate, to proceed at once when the necessary authority is granted by the Commissioner of Indian Affairs, and to represent the Red Lake Band in all matters concerning said band before the Secretary of the Interior, the Commissioner of Indian Affairs, and the Congress of the United States, and to be kept advised as to the actions of the so-called general council of the Minnesota Chippewas, and enter protests, if necessary, in behalf of the Red Lake Band of Chippewa Indians in accordance with resolution No. 1, which is a part of the proceedings of this council in its present session; and he shall receive from any moneys to the credit of the Red Lake Band of Chippewa Indians the sum of \$5 per day and \$4 per diem for meals and lodging, in addition to railroad fare, from the time he leaves his home and the day of his return in the performance of the duty conferred upon him by the Red Lake Indian council.

John Graves appointed as delegate and interpreter, Way-oon-ding appointed as delegate, No-din appointed as delegate, Joseph Jourdain, or Zo-zaince, appointed as delegate, Paym way way be nals appointed as delegate, they to receive each for his pay the sum of \$3 per day in addition to traveling expenses, meals, and lodgings while in the service of their people for which they are appointed, and to receive their pay and expenses from any money that may be to the credit of the Red Lake Band of Chippewa Indians, and they are to be called as soon as the Commissioner of Indian Affairs may arrange their transportation and he may deem necessary for them to appear before the proper officers of the department and the Indian Committees of Congress, and to acquaint Congressmen with the wishes and petitions of the Red Lake Band of Indians.

Full power from the Red Lake Indian council is conferred upon all delegates appointed by this council, and the Commissioner of Indian Affairs is given full power by this council to use any funds to the credit of the Red Lake Band of Chippewa Indians in payment of the allowances and expenses of the delegates as appointed by this council.

The vote of the council was unanimous, 41 for.

The chairman, Joseph B. Jourdain, and the secretary, John Graves, are appointed to present the minutes of this council to Mr. Walter F. Dickens, superintendent Red Lake Indian School, for transmittal and recommendations in the premises.

The vote of the council was unanimous, 41 for.

Motion was made and seconded that the council adjourn without date.

After a brief discussion by the council the chairman announced the council adjourned without date, 12 a. m., December 31, 1918.

We the undersigned, do hereby certify, the foregoing minutes of the Red Lake Indian council are correct and true, and we further certify that the following-named councilmen were present at this council, viz:

Joseph B. Jourdain, chairman.

John Graves, secretary.

Peter Graves, treasurer.

Joseph Jourdain, or Zo-zaince.

Way me tig osh e wah cumig.

Bazil Lawrence.

No din.

Be oonce.

Kay gway dub e tung.

Albert Stately.

Esau Stillday.

Kay bay aus ung.

Pay she ge shig.

Joseph C. Roy.

Pay shah nah quod.

Paym way way be nais.

Ah zhe day ge shig.

Kay kalk o gwon abe.

John English.

Kay gway je way bin ung.

Kay zhe aun e muck.

Ah nah quod.

Nay tah wub e tung.

Gwon ay aus ung.

Way do skunzh.

George Prentice.

Robert Rain.

Kah ge gay ge shig oonce.

Ain dus oon ding.

Way oon ding.

Simon Spears.

Kay ge she aus ung.

Me zhuck eence.

Frank English.

Saung way way.

O gwon aince.

Zo zay Boxer.

Bah wah be co we nay.

Mun e do ge sis oonce.

Benjamin Jourdain.

No din, jr.

I'e daun ah quod.

We further certify that the Red Lake Indian council is composed of 42 members, all having right to a vote, except the chairman, and we have caused the seal of the Red Lake Indian council to be hereto affixed.

[SEAL.]

JOSEPH B. JOURDAIN, *Chairman.*

JOHN GRAVES, *Secretary.*

We, the undersigned, chairman and secretary of the Red Lake Indian council, in compliance with orders and instructions from the Red Lake Indian council have this 2d day of January, 1919, presented the original written proceedings of the Red Lake Indian council to Mr. Walter F. Dickens, superintendent Red Lake Indian School, for transmittal to the department with his recommendations.

[SEAL.]

JOSEPH B. JOURDAIN, *Chairman.*

JOHN GRAVES, *Secretary.*

RED LAKE, MINN., *January 2, 1919.*

In conclusion permit me to say that it is claimed by some of the more educated members of the tribe that they do not want further supervision by the Government. This may apply to individual members with a small degree of Indian blood, who have become successful lawyers, merchants, etc., but it is not true of a great number of the tribe, particularly the old and feeble for whom an indigent home has been provided and is being maintained from this annual appropriation from the trust funds of the Indians.

Many of the more prosperous Indians were educated either in the Government schools on the different reservations or at the expense of the Chippewa Indians, and it is believed that the Government should continue to make adequate appropriations from the funds of the Indians for the education of their children and for necessary supervision and support of that class of Indians who are not fully capable of managing their own affairs.

(By direction of the committee the following communications will be made a part of the hearings:)

DEPARTMENT OF THE INTERIOR,

BOARD OF INDIAN COMMISSIONERS,

Washington, January 15, 1919.

Hon. CHARLES D. CARTER,

Chairman Committee on Indian Affairs,

United States House of Representatives.

DEAR MR. CARTER: Permit me to bring to your attention the following extracts from a report submitted June 3, 1918, by Commissioner Ketcham, who during this year has visited some 30 Indian reservations:

"In the beginning of this review of my field work I desire to center the attention of the board upon the appalling increase in immorality among the

Indians on some of the reservations I visited. In common with other members of this board I have been painfully impressed for some time with the growing tendency toward moral laxity of a large number of our Indians who but a short generation ago were sturdy advocates of pure manhood and chaste womanhood. The contrast between the moral conditions of those years and to-day is so strong that there is good ground for the statement that unless the evil conditions are righted immediately by law or regulation or both, most of the good work done by the missionaries and the Indian Office for the advancement of the Indians will be lost and the white people of the United States—the guardians of the Indians—will be responsible for another great crime against them. For it is nothing less than criminal for us, the white men and women of this country, to permit the residue of this great race, which was reduced to a mere remnant by, or with the passive acquiescence of, our people to degenerate into a state of immorality and irreligion.

"It is almost incredible that on one side of a barb wire fence, the boundary line of an Indian reservation, white men and women who are living together in loose sexual relations can be and are punished under the laws of the State while on the other, the Indian side of the fence, the superintendent of the reservation, the authorized agent of the United States Government, sees the vilest sexual practices going on under his very eyes and can or will do nothing to stop them. Yet that is exactly the situation in some parts of this land.

"Inquiries made by me on my trip and through the board's office at my suggestion have developed the following: Superintendents in some States are of the opinion that they have no power to procure the arrest and punishment of violators of the moral laws, whether they be citizen or noncitizen Indians; other superintendents, in the same States, hold there is no conflict between Federal and State laws which operates to prevent them from securing punishment for moral lawbreakers; some States and counties do not attempt to correct immoral evils by the prosecution of offenders; there seem to be no Federal statutes which cover moral transgression on reservations; one superintendent wrote that it was not deemed best to call in the aid of State courts because 'if we permit the State courts to have jurisdiction the Indians would, in a short time, lose everything they possess.'

"Taking into consideration the several court decisions bearing on the enforceability of State laws on Indian reservations, there probably is some justification for the varying views held by superintendents and other Indian officials on this important question. I have in mind two reservations in the same State, both of which I recently visited, on one of which the superintendent has enforced, through punishment when necessary, a decent observance of the marriage and divorce laws of the State, while on the other the superintendent told me he had no authority to enforce such laws.

"The latter superintendent said he could not secure correction and punishment of citizen Indians who violate the marriage and divorce laws of the State, and I feel sure he does not support his Indian court in prosecuting and punishing promiscuous cohabitation on the part of his noncitizen Indians. Now, this difference between two jurisdictions in the same State raises the question, 'Does the first superintendent exceed his authority or is the second superintendent negligent or indifferent?' Both of them stand well as superintendents; both seem to be good, well-meaning, conscientious men.

"Viewing the situation as a whole, I am forced to the conclusion that Congress, the Indian Office, and too many, I fear, of the superintendents must jointly bear the responsibility for the promiscuous immorality which is degrading the Indians on many reservations. Congress enacted an antiliqor law so drastic in its provisions that it enabled the Indian Office to carry on its most praiseworthy campaign against illicit traffic in liquor so successfully that many jurisdictions are almost 100 per cent dry.

"I am unable to understand why Congress, then, can not pass laws which will enable the Indian Office, through its superintendents, to quickly put a stop to the immoral practices I have referred to. If Congress can put on the statute books a law which sends to the penitentiary for a number of years, through the Federal courts, a man who is convicted of the illicit introduction of liquor into a reservation, I do not understand why Congress can not enact laws which will severely punish a man or woman, or both, white or Indian, married or unmarried, who indulges in illicit sexual practices on a reservation.

"Inasmuch as there seems to be considerable confusion in the minds of the superintendents and others in the Indian Service as to laws, authorities, rights, and regulations in respect to the nonobservance of marriage, divorce, and moral laws on Indian reservations, I strongly recommend that the Board of

Indian Commissioners at once begin a comprehensive survey of this whole problem with the purpose of laying before the Secretary of the Interior information and conclusions on which he may, if he so desires, base recommendations to Congress, to the end that our Indians be redeemed from the low state toward which they surely are tending.

"And this survey should include close inquiries into the relations which white men who live near Indian reservations and communities sustain toward Indian women. There is abundant evidence to prove that many white men regard Indian women, particularly young girls, as their rightful prey. Sometimes think that missionaries to the Indians should move out of the reservations into the neighboring white communities, for it is there where most of the evils caused by whisky and immorality have their source.

"My personal opinion is that nothing short of Federal legislation which has claws to it will be effective to overcome this growing evil of immorality and disregard of marriage and divorce laws on reservations. The earnest effort of devoted missionaries and conscientious superintendents to combat these evils seem to be futile. The white communities near Indian centers, instead of being what they should be, sources of good influence and encouragement to the Indians, too often are the contrary. The Government, which protects its Indians from the bootlegger and illicit-whisky peddler, should protect the wives and daughters of its Indians from the beastly passions of white men."

These statements are borne out by the observation of other members of the Board of Indian Commissioners, and at a meeting of the board April 8-11, 1918 we decided that active steps should be taken at once to remedy the situation. The matter was again thoroughly discussed at a meeting of the board held July 25-27, and also at another meeting October 23-25. A conclusion was reached that no effective remedy can be found for the evils mentioned except legislation; that since the Indians, sooner or later, will become citizens of the States in which their reservations are located, it will be wise policy to extend certain State laws over reservations to insure order and to train the Indians toward citizenship; that for the present it is desirable that these laws be administered by the Federal courts. The board, therefore, strongly urges legislation looking to this end.

On many reservations where the Indians are governed on the lines of Indian customs these customs have become very indistinct and have been much disturbed by returned students, who find in them, whether they are genuine or spurious and invented for the occasion, a cloak for any course of conduct they elect to pursue. Nothing will conduce so effectively to the welfare and success of returned students on the several reservations as a clear code of laws well administered. Such laws would conserve and supplement the work of the schools.

I desire in this connection to call attention to the inclosed copy of a letter from Dr. Robert L. Russell, superintendent of the Sac and Fox Sanitarium near Toledo, Iowa, and of the band of Fox Indians who have a reservation near the sanitarium. While Dr. Russell calls attention to an acute situation, there are many other superintendents who could furnish altogether too much material for a somewhat similar report.

The honorable Secretary of the Interior concurs in the view the Board of Indian Commissioners takes of this matter. As it would seem that no one action that can be taken would conduce to more far-reaching and salutary results, the board begs to express the hope that Congress may deem it wise policy to give the sanction of law to the Secretary's recommendations.

Very respectfully,

GEORGE VAUX, Jr.,

Chairman of the Board of Indian Commissioners.

SAC AND FOX SANATORIUM,
Toledo, Iowa, September 25, 1918.

Rev. WILLIAM H. KETCHAM,
1326 New York Avenue NW., Washington, D. C.

MY DEAR FATHER KETCHAM: In accordance with the promise made you on your recent visit here, I make the following statement covering certain matters concerning these Indians, the correction of which will, in my judgment, have a great civilizing influence upon them.

In the old days law and order on the reservation was maintained to the satisfaction of the tribe by certain laws made and enforced by the council. At

present, however, it seems that the tribal council has lost its influence and that the influence of the white man has not as yet had its proper effect. These Indians are, in fact, in the transitional stage, during which the younger element are growing up unrestrained by the older members of the tribe and in defiance of the white man's laws.

With the exception of seven serious crimes provided for by the United States statutes, these Indians are immune to the law when committing crimes on the reservation. The Indian Office regulations, of course, cover most of such crimes, but their enforcement necessitates the employment of an Indian judge and the maintenance of a jail on the reservation, and we have never yet been able to persuade an Indian to accept the position of judge, nor have we been financially able to maintain a jail.

All kinds of petty crimes are committed on our reservation, the culprits going unpunished. These include housebreaking, petty thievery, drunkenness, gambling, wife beating, and others too numerous to mention. The worst feature of the whole thing being that our men and women are thoroughly cognizant of the limitations of the law and commit crimes deliberately, secure in the knowledge that they will go unpunished. I make the statement unhesitatingly that no Indian girl in this tribe has ever reached the age of 14 years without being seduced. Indian parents having submitted their children to such treatment for years without protest, fearing injury at the hands of the perpetrators.

Probably the most disgraceful feature of the whole situation is that in regard to marital relations as maintained by our Indians. In so far as I can discover the old customs regarding marriages have become obsolete and no new customs have developed in their places. These Indians are married one day and divorced the next without any ceremony whatever either party securing the consent of parents or guardian. Many children of such marriages are suffering for the want of parental care. Frequently children of very tender years marry in spite of protest of parents, who realize fully the harm in such unions but who do not have the moral courage or the support of law to prevent such unions. We have numbers of cases in which men and women have been married and divorced many times, one instance in particular being a young man who was married and divorced five times before he was 21 years old. Another woman yet under 30 years has had children by three different men and is married to a fourth, and only yesterday we asked the local board to induct into the Army an intermarried citizen Indian who deserted a woman and child after telling her that he was not legally married to her. Mothers of illegitimate children have absolutely no redress and are compelled to bear the burdens of their shame alone.

This disgraceful state of affairs should be corrected by all means and the laws of the State of Iowa made to cover these Indians or new laws enacted by Congress especially for them. Personally, I believe that the criminal code of this State could be made to apply to them more easily than could the enactment of new laws. They are in a measure familiar with the laws of the State—evidenced by the fact that they do not break them while off the reservation—and could comply with them without any hardship being effected.

For this reservation some provision should be made allowing the superintendent to sit as a court for minor offenses, such offenses, for instance, as a mayor and justice of the peace handle here, otherwise minor offenses would have to be tried in Federal court 50 miles away, proceedings which would be very expensive. The more important crimes could be tried in regular Federal court.

In event of such laws being secured provision would also have to be made for the incarceration of our prisoners in the Tama County jail and a payment to the sheriff fees for their care. Federal court prisoners, of course, could be cared for as heretofore.

Indian police should, if a new law is passed, be clothed with all authority afforded other officers of the law, and at the same time superintendents should be empowered to employ white officers in cases where Indian police fail in their duty, one or two instances of which have come to our notice.

In this connection a truancy law similar to that enforced in this State, which requires the attendance of children between the ages of 6 and 16, should be enacted. Such a law would be welcomed by us and would, I am sure, be well received by the majority of the Indians, who desire their children to have the benefits of our schools but who do not have the moral courage to force their older ones in school.

Even at this late date there are a few children on this reservation who have never been to school and who have remained out without any reasonable

justification for doing so. In these cases we have been compelled to withhold annuity moneys, sometimes, I am afraid, working a hardship on parents or other members of the family.

Nothing, Father, pleases us at this agency more than the knowledge that there is some prospect of securing legislation so necessary for the good of this people. Nothing will hurry them through the transitional stage quicker than good laws intelligently enforced. This is not a bad people; they are very careful not to break the laws of the State off the reservation, and it is seldom that we ever have a complaint from outside sources. They will obey any law made for their protection on the reservation, and the older members of the tribe, I am sure, would cooperate in their enforcement. The mere placing of laws relating to them on the statute books will have a good effect and prevent many of the petty crimes which are committed almost daily at present.

With best wishes for the success of your endeavor, I remain.

Very truly, yours,

R. L. RUSSEL, *Superintendent.*

DEPARTMENT OF THE INTERIOR,

Washington, January 15, 1919.

MY DEAR MR. CARTER: I have the honor to transmit herewith a draft of proposed legislation to extend to Indians on the various reservations the State laws governing in the matter of marriage and divorce and the social crimes as therein enumerated.

Many reports of superintendents and investigating officials and others show an urgent need of legislation to regulate the marriage relations of the Indians and to remedy the existing prevalent social evils therein enumerated. For many years the Government has tolerated conditions because of the Indians being uncivilized, and it was not believed expedient to thrust upon them too soon the laws and principles of our Nation with reference to these matters. But conditions have changed. Indian Service officials, Indian-school teachers, church missionaries, and others have been teaching the Indians—old and young—for years, so that most of the present generation are aware of the fact that they are expected to adopt the habits and customs of civilization in regard to marriage, etc.

Comparatively little trouble is now experienced with the older generation of Indians, as they are generally settled in their marital relations. The greatest difficulty is now experienced with certain Indians who know what is expected of them, but who also know that the present laws are inadequate to punish them, and who willfully commit many acts which come within the list of generally acknowledged crimes named in said draft, thereby wronging others, exerting a demoralizing influence, and retarding the advancement of the civilization of their race. Many of this class of men cohabit with an Indian girl for a short time, then leave her for another, and so on, as it suits their capricious desires. Until remedial legislation has been secured, it seems the race will be dragged down by immorality and degenerateness, and their industrial, economic, and moral progress postponed and even set back.

For many years Indian-custom marriage and divorce among Indians has been recognized, but this special privilege should now be abolished and the Indian placed on the same footing in this respect as other persons to whom the law now applies, both ignorant and well-informed, educated and uneducated. While this proposed legislation provides for the abolishment of the Indian-custom marriage and divorce, it also protects the interests of those who have in good faith consummated such marriage prior to the passage of the act.

The determination of the heirs of Indians has been complicated because of the difficulty resulting from Indians marrying and being divorced by Indian custom. The sooner this special privilege is abolished, the sooner will this difficulty be diminished.

It is believed that the proposed legislation is urgently needed for the welfare of the Indians and the suppression of immorality, and it is respectfully suggested and recommended that the proposed legislation be enacted into law during the present session of Congress if practicable.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

Hon. C. D. CARTER,

*Chairman Committee on Indian Affairs,
House of Representatives.*

A BILL To extend to Indians the State laws governing in the matter of marriage and divorce and the social crimes herein enumerated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the passage of this act, the laws, both civil and criminal, of the State in which they reside, pertaining to marriage and divorce, adultery, bigamy, polygamy, fornication, seduction, carnal knowledge, incest, statutory rape, illicit cohabitation and lewdness, are hereby extended to all Indians on Indian reservations who have not heretofore been made citizens of the United States.

SEC. 2. Indian custom marriage and divorce are hereby abolished from and after the passage and approval of this act: *Provided*, That Indian custom marriages and divorces between noncitizen Indians actually consummated prior to the date of the passage of this act shall be recognized as valid: *Provided*, That this act shall apply to the Pueblo Indians of New Mexico: *And provided further*, That superintendents or other officers in charge of Indian reservations or schools may be authorized by the proper State officers to act as deputies for the purpose of issuing marriage licenses to the Indians residing under their jurisdiction.

OFFICE OF UNITED STATES ATTORNEY,
Muskogee, Oklahoma, December 23, 1918.

HON. W. W. HASTINGS, M. C.,
Washington, D. C.

DEAR MR. HASTINGS: This is to acknowledge receipt of your letter of December 18 in which you ask to be advised whether or not the provision in the Indian appropriation bill, approved May 25, 1918, relative to the possession of intoxicating liquor in Indian country, has been helpful in enforcing the prohibitory laws against the introduction of intoxicating liquors into Oklahoma.

In reply I beg to state that in my judgment, generally speaking, this provision in the appropriation bill can have no application to that part of Oklahoma which was formerly Indian Territory. The provision seems by its plain terms to be limited in its effect to Indian country. Indian country as now determined by the decision of the courts and by enactment of Congress includes two classes of land: (1) That where the title still remains in the Indian tribe; (2) that where the title to the same is held in trust by the Government for the benefit of the Indian, or while the same remains inalienable by the allottee without the consent of the United States. The latter class mentioned now falls within the class of lands termed "Indian country," because of the provisions of the act of Congress approved January 30, 1897 (29 Stat., 506).

So far as laws pertaining to the introduction of liquor into Indian country are concerned, they have no application in the Indian Territory except in the case of allotments in the hands of restricted Indians.

The application of the Federal prohibitory laws to the Indian Territory portion of the State of Oklahoma is clearly set forth in the following cases: *Ex parte Charlie Webb* (225 U. S., 663); *United States v. Bob Wright* (229 U. S., 226); *Joplin Mercantile Co. and Joseph Filler v. The United States*, decided by the Supreme Court on February 23, 1915; also *Evans v. Victor* (204 Fed., 361).

The Indian appropriation bill approved March 2, 1917, contained the following provision:

"That automobiles or any other vehicles or conveyances used in introducing or attempting to introduce intoxicants into the Indian country or where the introduction is prohibited by treaty or Federal statute," etc.

As you will observe, this language is broad enough to not only cover Indian country, but also any country where the introduction of liquor is prohibited by treaty or Federal statute. Had the provision in the appropriation bill approved May 25, 1918, contained similar language, then it would, beyond doubt, have been broad enough to apply to the Indian Territory. As it now stands, I hardly see how it could have application to any cases that might arise in the eastern district of Oklahoma, except where the liquor is found in the possession of some person on restricted Indian land. There have been very few, if any, such cases to arise.

Liquor being introduced from without the State into the eastern district of Oklahoma is almost universally caught in the possession of the offender while he is in some city or town or traveling upon the highways of the State or by

railroad. Under those circumstances any law which is confined in its application to Indian country would not apply.

If I can give you any further information in this regard, please command me.

Yours, very truly,

W. P. MCGINNIS,
United States Attorney.

OFFICE OF UNITED STATES ATTORNEY,
Muskogee, Okla., December 30, 1918.

Hon. W. W. HASTINGS, M. C.,
Washington, D. C.

DEAR MR. HASTINGS: Replying to your letter of December 26 relative to the amendment of that portion of the appropriation act approved May 25, 1917, which makes the possession of liquor in Indian country an offense, I beg to advise that in my judgment if the provision were amended by inserting the word "or" as indicated in your letter, then the statute would be broad enough to apply to the Eastern District of Oklahoma.

With that amendment it would be in practically the same language as was employed in the clause of the Indian appropriation act approved March 2, 1917, authorizing the libel of automobiles used for the introduction of liquor. The courts have held that act was broad enough to apply to the Eastern District of Oklahoma.

Yours, very truly,

W. P. MCGINNIS,
United States Attorney.

DEPARTMENT OF THE INTERIOR,
Washington, July 12, 1918.

DEAR MR. CARTER: Receipt is acknowledged of your letter of June 24, transmitting copy of Senate 3915, being a provision for the payment of \$676, to the County of Benson, N. Dak., for the care of three Indians, Mary Josephine Pejihutaskana, Alfred Littlewind, and Joseph Langer, in the North Dakota State Insane Asylum, concerning which you desire a report for the use and information of the Committee on Indian Affairs.

In reply, you are advised that this matter has been previously presented to the department and was included in H. R. 8696, introduced by Hon. P. J. McCumber. Benson County submitted claims covering the care of these patients from the time of their incarceration in the State asylum. However, the Indians are held to be citizens, their commitment to the State asylum was not ordered by the Government, and the Government made no agreement to the effect that it would pay for their care. The claims were therefore disapproved by the auditor, it being held that they could not be paid under the ruling of the Comptroller, to the effect that:

"The head of a bureau is not authorized to pay for services rendered without authority merely because an incidental something was done which might have been authorized."—8 Comp., 157-159.

In this connection you are informed that Congress subsequently enacted legislation authorizing the settlement of these claims (39 Stat. L., 123), and payment was made.

The bill in question represents charges for the care of these patients from the date of this settlement up to the time they left the State asylum, two having been transferred to the Canton Asylum for Insane Indians, and one having escaped.

Claim covering the amount represented in the bill, \$676, was submitted by Benson County, under date of November 13, 1917, and was disapproved by the auditor under date of December 12, 1917, the present situation being exactly analogous to the former.

If, however, Congress desires to pass legislation looking to the relief of Benson County in this connection, I can see no objection thereto.

Cordially yours,

FRANKLIN K. LANE,
Secretary.

Hon. C. D. CARTER,
*Chairman Committee on Indian Affairs,
House of Representatives.*

THE ONTARIO,
Washington, D. C., January 6, 1919.

The COMMITTEE ON INDIAN AFFAIRS,
House of Representatives, Washington, D. C.

GENTLEMEN: If you grant the appropriation asked in the bureau estimates for the recently discovered Indians in Polk County, Tex., you will bribe them into an irreparable backset in their progress toward real United States civilization and citizenship, and both institute among them and confirm the bureau's unyielding, expensive, and retarding system of control in tribal masses.

Always self-supporting, these Indians have by that fact alone retained their independence and manhood, and therefore are already on the best and quickest highway to our civilization and citizenship. This move enforces dependence and ends at once that supremely favorable condition.

They have never needed other help than to be persuaded to quit being tribal Indians (which is easily accomplished), and then enabled to scatter among and avail themselves of our established avenues of industry and development always open to them as fully as to all other men. This quickly completes their transformation into capable and acceptable American citizens, where they should remain, subordinate only to our general laws and customs. By giving the appropriation you will not only say to them you prefer they remain tribal segregated Indians, but you actually hire them with big bonus to do just that. Segregation has been the supreme hindrance to the civilizing and citizenizing of our Indians from the very beginning of our intercourse with them.

These 206 Polk County (Tex.) Indian men, women, and children are a part of 702 in that State taken into bureau statistics by the Bureau of Indian Affairs within the last few years from census discovery and carried as "Not under an agent." The Indian Bureau last year told Congress it wanted \$175,000 to set up its system over these 206 Indians. That was \$850 per capita for every man, woman, and child. If the \$850 per capita to begin with is granted for these 206, it will take \$600,000 to cover into bureauism the whole 702, for it will soon appear that the balance have the same right, because the evidence before your committee is that the present commissioner, who is from Texas, is "personally interested." It matters not that just now all our people, men, women, and even children are officially urged, and to be further implored, to help the Government in its supreme emergency with every dollar they can raise to meet war expenses.

These Texas Indians are a part of 22,863 throughout 27 States recently appearing in the reports of the Commissioner of Indian Affairs as "not under an agent" and taken up in bureau statistics from Census Bureau discovery. I would dispute that these are all Indians, for very many of them carry a much larger proportion of other than Indian blood.

There are 5,836 of the same kind of Indians in North Carolina coming into bureau statistics from the same census source and also carried as "not under an agent" for whom can easily be brought a like claim to appropriation. If the next Commissioner of Indian Affairs happens to be from that State and realizes his predecessor's success, he will be tempted and assume a "personal interest" in his Indians, and if the same relative cost is maintained for instituting bureau care over them, this will create a demand for the North Carolina Indians and carry into that State a beginning appropriation of \$4,960,600. Who then can stop the process until it covers into the same expensive bureau supervision the balance of the 22,863 census discovered Indians in the other 25 States, which at the same ratio will require a beginning grand total of \$19,433,530.

One hundred thousand dollars of this \$175,000 for the Polk County Indians is asked for the purchase of land. That would cost \$400 per capita and, applied to all the "not under an agent" Indians throughout the United States, would bring the total cost for land alone to \$10,974,240, provided of course The System would buy as cheaply in other States as the proposed price in Texas. The land barons willing to sell for good price and ready cash are not all in Texas.

A few hundred thousand Indians for unknown centuries owned the whole of what is now the United States, but that never civilized them. The Government policy, instituted when coming into occupancy of our vast land areas, of segregating within these areas the Indian thereon in tribal masses to own in common, defined reservations, has always been the Indian system's potential influence to obstruct their detribalizing and therefore hinder their transformation into our civilization and citizenship.

Large numbers of these "not under an agent" Indians are not only most worthy citizens but some have become distinguished by election to public office even as high as State legislature. Send me with a delegation of your committee to be piloted by an Indian Bureau guide whose special influences have promoted these "not under an agent" schemes to visit all or any such Indians and then permit me to pilot the investigation to a like number of Indian communities who have been for scores of years under bureau care, and it will be established that it is conditions under bureau care that need remedy and not the "not under an agent" conditions.

I would like especially that this investigation should know and bring to you all the facts and contrast the present conditions and past histories, claims, and progress of the Polk County Indians with those of a larger community of Indians who loyally served as scouts and guides in our Regular Army against the turbulent of their own race, and whose rights and history to that date are recorded in the report of the Commissioner of Indian Affairs for 1905, pages 98 to 103. The shame of broken Government promises, debilitating oversight, feeble educational advantages, and lack of proper civilizing help to this community since that report, in order to compel obedience to bureau projects, particularly within the last six years, during which time it has been directed by the very same officers in the Indian Bureau who are promoting this Polk County scheme, warrants lack of confidence and even procedure toward radical change in order to clear the Government's responsibility. In the Texas case white men want \$100,000 for land they can't use to advantage any more or otherwise sell at the price, and in the other case white men want the water rights of the Indians.

I have assailed the intentions of the Indian Bureau system. Of course I do this on the showing of results.

The 336,243 (alleged) Indians proclaimed as his responsibility by the Commissioner of Indian Affairs in his annual report for 1918 are each just that many reasons for the existence of the Indian Bureau and for which he brings to you the annual appropriation of \$12,000,000 of our Government money to keep his machine in motion. These reasons gone, the career of the bureau machine closes and the \$12,000,000 annual expense is saved.

If the statements already made herein do not show that the 22,863 "not under an agent" (alleged) Indians ought not to be included as that many of the reasons for a bureau to manage them, the investigation I above suggested will surely exclude them from the record.

Four years ago the present Secretary of Interior proclaimed with élan that the "Cherokee Nation" Indians had been given their lands and money and were turned loose as citizens. Soon after I met Gab Parker, agent for the "Five Civilized Tribes," and asked, "Is it true that the Cherokees have had their money and lands turned over to them and are now citizens?" He replied, "Yes, all but 7,000." I asked, "What is the matter with the 7,000?" He replied, "They have been declared incompetent." I then turned to the Indian Commissioner's report and found that no Cherokee whatever had been dropped but that the then whole 41,693 were still on the rolls. The Cherokees are continued on the rolls for 1918 to the number of 41,824 (an increase of 131) and are therefore that portion of the 336,243 reasons for continuing the bureau. Take out your pocketbooks and look at your Government paper money issued in the last four years and look at your war bonds and you will see on every dollar and every bond "Houston B. Teehee, Register." Mr. Teehee is a Cherokee and included in Indian Bureau reports as one of the 336,243 reasons for bureau continuance. The eminent Robert L. Owen, chairman of the United States Senate Committee on Finance, now abroad studying European financial systems, is another Cherokee in the same count. And there are others, many.

For 50 years the bureau has carried in its statistical headings, "The Five Civilized Tribes," which covers the "Cherokee Nation," "Choctaw Nation," "Creek Nation," "Chickasaw Nation," and "Seminole Nation," which now together aggregate 101,506 of the 336,243 bureau's reasons. For 40 years prior to the opening of Oklahoma they as "nations" carried on their own systems of government, each having a governor, legislature, public officers, schools, etc., under their own control. Nowhere in their affairs or life was race inferiority admitted by them, therefore lofty aspiration had opportunity and was cultivated. Their jealously guarded educational control enforced high proficiency and secured school officials and teachers of proven ability and large vision. Their schools included academy and college, but distant colleges and univers-

ties of the country were constantly used by them unhampered by any prejudice and without establishing race inferiority. The results in the other "Five Civilized Tribes" were the same as among the "Cherokee Nation." This is attested in part by three of your committee, your distinguished chairman, Mr. Chandler, and Mr. Hastings; Mr. Gabe Parker, the predecessor of Mr. Teehee as register of the treasury, but now superintendent of the five tribes, is another, and many others of large ability. Mr. Parker has the unique honor of being his own superintendent and the superintendent as well of Senator Owen, Mr. Carter, Mr. Hastings, and Mr. Chandler. It does not answer to assert "mixed blood" as the cause, because the tribes longest and most exclusively under the bureau control have many who are just as proportionately mixed blood and are quite without any such successful results from bureau school methods.

The schools of the five tribes were not only far more successful but they secured a more universal and more cheerful attendance than the bureau conducted schools have had among these same Indians during the last 20 years since these tribes fell into the bureau school's care.

The controlling reason for this discrepancy and the other lack of Indian progress is that the bureau itself is directed, and consequently all its activities center, on the false allegation of inferiority in the Indian race which guides its every purpose and action.

The facts show that Indians once corralled in bureau statistics are never let out by any bureau action.

Very many other thousands of Indians throughout the country are just as absurdly counted as reasons in bureau statistics.

The bureau has long had welcome and influential assistance and even urgent direction in its purposes.

Secretary of War Porter, in his annual report covering the Indians who were then under the War Department (see Congressional Debates, 1828, vol. 5, appendix, p. 10), says:

"The annual appropriation of ten thousand dollars to the purposes of educating Indian children and teaching them the mechanic arts has had the effect to draw to almost every Indian reservation, in addition to the agents and interpreters, a considerable number of missionaries and teachers, with their families, who, having acquired, principally by the aid of this fund, very comfortable establishments, are unwilling to be deprived of them by the removal of the Indians; and thus we have found that while the agents specially employed by the Government for this purpose are engaged in persuading, by profuse distributions of money and presents, the Indians to emigrate, another set of Government agents are operating—more secretly, to be sure, but not with less zeal and effect—to prevent such emigration.

"These remarks are not intended as a personal reflection on the missionaries and teachers, much less on the pious and respectable patrons of these benevolent institutions, who, no doubt, are disposed to lend a ready support to every humane measure which the Government may think proper to adopt in favor of these depressed people, but are rather intended to show the natural and unavoidable tendency of the system itself to counteract the leading policy of the Government."

Through years of wide and intimate knowledge and acquaintance with many missionaries among the Indians I have found that their almost universal influence is in favor of the obstructing tribal segregation method and against any temporary, much less permanent, escape therefrom for any purpose whatever. They are sure they can migrate Indians into heaven in one generation, but are equally sure Indians can not be migrated into the United States as capable citizens short of many generations. The first proposition can not be disputed because of the absence of reliable statistics, and the last they themselves make as true as they can by every influence and assertion they can devise.

Never has there been a normal Indian who could not have been made into a perfectly competent civilized man quite within the same time it takes to make a competent civilized man out of those born to civilized parents. It has only needed that that be the paramount purpose and they be persuaded to quit being uncivilized (which I repeat is easy), and we give them just the same teaching, incentives, examples, and opportunities. The motives and influences of the missionaries have been adopted by Indian management and for the same reasons. The monster annual appropriation of public funds has created in every reservation "very comfortable establishments" for the bureau's employees and built an autocracy of control that heads off every influence endangering its own perpetuity.

One Commissioner of Indian Affairs summed up the bureau purpose in this: "Improvement but not transformation." That at once seeming to fit in with the bureau's scheme, has become enframed in later publications, and still lives as bureau propaganda. No common sense person has stopped to think about it long enough to discover that all "improvement" is inevitably "transformation" and that the slogan is therefore senseless. I know more than one Indian community "transformed" by Indian bureau methods where there was no "improvement."

In 1915 the present commissioner in an address to a large audience of bureau officials, employees, Indians, and citizens he had gathered at the San Francisco Exposition, having by his environment imbibed the bureau spirit, said:

"In our labors with these primitive people, we are too prone to become impatient. There is a disposition to expect a revolution rather than an evolution, such as has come about in 2,000 years of white man's civilization. It is unfair, it is unjust, to expect more rapid progress from the Indians than is shown in the development of the white race. If I were called upon to indicate the one important word in our relations with the red man, it would be patience."

It is enough to say of this absurd pronouncement that it is the blanket apology for failure to secure prompt and worthy results which has been used for many years by the church and State authorities in absolute control of Indian destiny, who instituted the machinery which has held back and keeps the Indian in his dependent case. Impatience is one of the very best stimulants to all progress.

The bureau asks you to give \$25,000 to be used as a "Reimbursable" fund among these 206 Polk County Indians. "Reimbursable" is one of the recent clever inventions of the bureau that lures the Indian to remain content in the bureau corral. The principle itself is teaching dependence and a borrowing business character.

As a citizen and taxpayer I therefore object to Government appropriation for the Polk County (Tex.) Indians, and because of precedent, urge that their destinies be left where they belong, with the State in which they are located, and they be encouraged to retain their same individual right all others have to move from oppressive surroundings into larger privilege. Let the State determine the kind of citizens it wants to make out of the humanity within its borders. This may lead to a way out from the bureau absorbing, indurating, hindering, un-American race segregating policy, and they some time reach real citizenship. If the State, unfortunately, adopts the bureau policy, their situation will be at least not worse. Doors opened in our industries and schools and they encouraged to enter is the true solution.

In order that the committee may know I have good right of expression in this behalf, I inclose copy of an address made here in the city in 1914, and confirming its statements make it a part of this letter.

Very respectfully,

R. H. PRATT,
Brigadier General, Retired.

INDIAN SCHOOLS—AN EXPOSURE.

[Address before the Ladies' Missionary Societies of the Calvary Methodist Episcopal Church, Washington, D. C., April 6, by R. H. Pratt, brigadier general, United States Army.]

OUR INDIAN SCHOOLS AND THE SYSTEM.

I am asked to talk to you for 30 minutes about Indian schools.

I speak from wide, long, and varied experience with the Indians. Forty-eight years ago as an Army officer I began to handle Indians on the frontier. First I commanded Indian Scouts, then assisted in negotiations with Indians, then had charge of tribes, then through two winter campaigns against them commanded Indians as scouts and guides, and during this time as the result of one campaign had charge of hundreds of Indians held as prisoners at the post of Fort Sill, Ind. T. I then took 74 selected bad leaders of these in chains to Florida. I soon removed their chains, and there gave them such education and industrial training as I could under their prison life. Most of them acquired the English language, and quite a goodly number became able to write it.

After three years they were released, and I arranged and took a part of the younger men to Hampton Institute, Va., and soon after, with Mrs. Pratt's help, brought 47 more, both boys and girls, from the Dakota tribes, and remained in charge of all these for more than a year. I then suggested an Indian industrial school at Carlisle, Pa., inaugurated it by bringing 147 Indian boys and girls from Dakota and the Indian Territory, and conducted it for 25 years, during which time it grew to an annual attendance of above a thousand, coming from more than 80 different tribes. Having been retired from Army service, I was relieved 10 years ago, but have since kept up a wide correspondence with the graduates and returned pupils of this school.

During the Carlisle experience I visited most of our Indian reservations and became well acquainted with all sorts of Indian management and mission work and was constantly called to Washington with reference to my Indian duties.

Speaking to you from this experience, I say that under the same environment and using the same facilities, it is quite easy to educate Indians in the English language and to train them to full usefulness in civilized industries, and that with best chances for their acquirement, high education, and skillful ability in industries, business, and professional life are all easy certainties for Indian youth. When properly prepared Indian youth are welcome in all our schools and industries.

About 300,000 of our population are classed as Indians. A very considerable proportion of these have white blood. There are men and women on the rolls of the Indian system who have as much as 63 parts of white blood and only 1 of Indian. Almost all mixed bloods are the products of white fathers and Indian mothers. Many men among these mixed bloods, through fatherly ambition and right chances, have developed large ability and gained high place in the Nation. Just now two of our National Senators and two Members of the House of Representatives have Indian blood.

But there have been also great men of pure Indian blood. Uneducated and untrained, they have shown remarkable statecraft and generalship. Among these Red Jacket, Tecumseh, Chief Joseph, and scores of others, both in the earlier history of the country and in these later days, many of whom became my personal friends. If these had been given education and the chance, they would have written their names high on the scroll of America's wonderful progress.

At no time in the history of the country has it been impossible for young Indians to move out from their tribes and to receive a welcome in our civilized life and to gain as high an education and as great skill as was possible for them to absorb and to remain in our civilization and go on to still greater perfection. They only needed encouragement and the proper help. The overpowering barrier has been the tribal segregating system enforced by our Government.

The negroes were forced to come to America and were forcibly distributed among our people, and by the very necessities of the case compelled to learn the language and acquire the industries their enslaved condition made necessary. They have become 10,000,000 of useful citizens. None of them can speak their old languages or have habits of the old aboriginal life of their tribes. On the contrary, since slavery was abolished they have made remarkable progress in acquiring intelligence and varied industrial usefulness, and have entered the higher walks of business and the professions and have accumulated vast aggregate wealth.

Contact with the white race was the Negro's salvation.

At vast expense we segregated and imprisoned the Indians apart from all right contact with our life on reservations by tribes and made them prisoners, and by the most ingenious devices and the most relentless and heartless systems of control compelled them to continue in their old life. One-fourth of the money we spent in enforcing Indians to continue their tribal life, if wisely spent in merging them into our life and industries, as Washington, Jefferson, and other fathers of the Republic urged, would have incorporated them as useful, self-supporting citizens long ago.

Our school histories and daily published accounts of the Indians and almost all of our writings have presented false views of their qualities and character.

The Indian is as much entitled to be judged by comparison as any man. Judged by this, he is not as brutal as the boasted race which has encompassed and oppressed him. He is kindly and responsive and even more charitable than the educated and trained people of the master race.

The influences which have controlled the Indian from the beginning have all persuaded, hired, or compelled him to segregated tribalism. The influences that bear upon him to-day are increasingly strong and insidious in this purpose. There has never been an honest, continuous, and strong purpose in the system to recognize the man as being capable of the qualities and to give him a proper chance to acquire the ability of American citizenship. If, perchance, in limited numbers he has been permitted to go beyond the reservation among our citizens for some education, training, and experience toward this ability. It has almost universally been his lot to be hired, persuaded, or compelled to return to his people and become one of the mass.

The reservation has always been a prison, and the Army was used to establish and enforce this prison life. The Indian was hired to continue tribal by rations, and persuaded by the feeble systems of tribal schools, and inefficient farm training, and allured by issues of cattle and other stock, and enticed by lands in severalty which riveted him to tribalism; and in these later days is enticed by the loan of Government money to help develop, tribally, his surroundings which keeps him in tribal duress. This will teach him one more sad lesson that "He that goes a-borrowing goes a-sorrowing," but it thrives the system. The system asked Congress and was given about a million dollars for this new tribal riveting scheme.

The Government always was and is now the only employer on the reservations. There was no diversity of industries allowed, no material employment outside of agriculture, and the very system of agricultural training invited failure everywhere because of its weak and incompetent quality and remoteness from market. One farmer has been held sufficient to instruct hundreds of families of Indians ignorant of farming and scattered over wide areas. Thus any sort of right and speedy accomplishment was impossible. I might go into details and show how this whole system of industrial instruction and management has always been calculated to breed just the failure which has resulted, but you only asked me to talk of schools.

An unpleasant duty requires me to speak with great positiveness about the qualities and false reputations of the various kinds of schools, and I desire to expose the reasons for the large failure which has followed the use of the widest systems adopted.

The Indian system has not always been in the hands of capable, humane, and wise management, intent on elevating the Indians into real manhood and citizenship. More than 36 years ago it was suggested, and in part accepted, that one good way to educate and train the Indians into the capacity and merge them into our citizenship was through the use of industrial schools established in the surroundings of our best American civilization, and from these schools push them individually out into the general school system of the country and into its avenues of industry. This became the only scheme ever adopted by the Government intended to merge the Indians into becoming co-equal Americans. Why it has in part been unsuccessful is one object of this paper.

There had been day schools among the Indians for more than 200 years. I know a tribe which has had day schools for longer than that, and they are still but a compact tribe of Indians under the care of the system. For a hundred years we have had day schools among the 5,000 Indians on their reservations in the State of New York, but such schools have not lifted them out from the babyhood of dependent tribal life into the manhood of American citizenship, but have rather indurated their tribalism. The Society of Friends has maintained a tribal school in one of these tribes for 112 years without making a single convert and with the same meager result as the day schools among those Indians.

Scarcely an Indian of the several tribes in New York so educated has left his tribe and gone out into American life. A contrasting proof of the efficiency of another system, and its results is the fact that over three hundred of the youth of these tribes were permitted to attend the new system of nonreservation schools during the last 25 years, and near half of them have abandoned tribal life, moved out into our communities and become independent, useful citizens, successfully engaged in the varied pursuits of the many American communities in which they live.

It can therefore be easily seen that educated among our people, Indians aspire to our life, but weakly educated at home in day schools, they adhere more tenaciously to tribal life. The courage and ability of our American citizenship is as easily and quickly gained by Indians as by the people of the many other races we have incorporated, but it must be through the same contact with our

citizens which we accord to them. Swimming is only learned by going into the water.

I intend to use this address widely, and therefore wish to expose here one of the most baneful influences that has ever controlled and perverted the Indian school system an discredited and hindered its highest educational purpose. More than 20 years ago, while at Carlisle, there was a newspaper correspondent in this city of Washington, engaged in writing about public matters through the columns of an eminent New York newspaper. He persistently attacked the nonreservation system of educating Indians. He became the tool of the Indian system, and now and then was sent out by that system to make some investigations on Indian reservations. He increased his income by becoming the Washington representative of the Indian Rights Association in addition to his newspaper work. In these double capacities, he engaged in wide criticism and wrote himself into notoriety by assuming to praise and blame right and left.

He was then appointed a member of the Board of Indian Commissioners, which is a body of "ten men eminent for intelligence and philanthropy" created by law at President Grant's request for the special purpose of careful investigation into Indian matters everywhere, with a view to helping the administration to overcome the then rampant maladministration and defects of management.

This man assumed dictatorial utterance and misrepresentation in regard to my work at Carlisle, which he never visited. I always met these assaults. After about two years as a member of the board of commissioners, he wrote two letters containing false statements. I sent copies of these letters to a United States Senator, specially interested in my work, and called his attention to their quality, asserting that a necessary part of right, "intelligence" was truthfulness, and inviting attention to the fact that nothing that the man did indicated that he was "philanthropic;" that all his acts were calculated to tear down and not to build up. The Senator went to the Secretary of the Interior with my letter and the two newspaper letters. On reading these, the Secretary wrote a personal note to this newspaper correspondent, Washington agent of the Indian Rights Association and a member of the Board of Indian Commissioners, demanding his resignation from the board, whereupon he went off that board, and also soon after out of his position as Washington secretary of the Indian Rights Association.

During a presidential campaign he wrote a laudatory book for campaign purposes, covering his view of the career of one of the candidates. That candidate was elected, and rewarded him for his laudation by making him Commissioner of Indian Affairs and placing him in charge of the vast estate of the Indians and their development. The position of Commissioner of Indian Affairs has long been a plum for political service, which inevitably influences perpetual change in the personnel throughout that department.

While in office this commissioner began the destruction of the nonreservation schools. He wrote a letter to the Speaker of the House of Representatives recommending that seven different nonreservation Indian schools be abandoned. He then insidiously labored to have such schools turned over for use as eleemosynary institutions to the States in which they were located. This was offering a direct bribe to support his purposes to each of the congressional delegations from the States in which these schools were located. Three of these schools were by special laws so given to States. These schools were the property of the people of the United States at large, and if abandonment was needed, could have been sold for large sums of money and the proceeds put back into the Treasury, where they belonged; for in every case they had cost hundreds of thousands of dollars.

During this period there were 15 or more infamous stories widely circulated through the newspapers about alleged Carlisle graduates. They were ingeniously worded and in every case declared crimes and misconduct. Every case alleged, save two, was absolutely and unqualifiedly false, both as to name and events, no such Indians having been at the Carlisle School and no such events as alleged having occurred. In one case the name of an exstudent of Carlisle was used. The charges were atrocious, but without the shadow of foundation in fact, and the Indian himself was most worthy. In the other case it was alleged that the outlaw "Apache Kid" was a graduate of the Carlisle Indian University, and there had acquired great literary and other competence, and had returned home to become the terror of the Territory of Arizona. The description was lurid and the article was published widely, especially in the

Sunday papers. It so happened that there was an "Apache Kid" who was terrorizing the Territory of Arizona, which was the only truth in the story. Kid was never a pupil of any Indian school and was an outlaw before Carlisle School was established and before the Government began to educate the Apaches, and remained an outlaw to the end. The attention of many of the papers publishing this article was called to the facts in the case, but none of them published such facts, which indicated they were under perverting espionage.

These fake stories, accompanied by other like misrepresentation from such noted source, have filled the country with unwarranted doubt about the results of Indian education, and is my warrant for making this exposure.

Soon after becoming commissioner, in addition to his activities before Congress, he began increasing day schools and appressing nonreservation schools and did all that he could to destroy the latter through false representations in magazine and newspaper articles and by placing limitations upon the securing of pupils for said schools and by dismissing and transferring their employees. In a magazine article he falsely declared that "85 per cent of the Indians from nonreservation Indian schools, such as Carlisle and others, sooner or later revert to the blanket." He asserted that the Indian day school was the only school to do the work.

His immediate predecessor twice during his term of office had instituted thorough inquiries throughout all the reservations covering the products of the nonreservation schools and published in two different annual reports, first, that "3 per cent of such products were excellent, 73 per cent good, and 24 per cent poor and bad." Two years later a like investigation was made and "10 per cent" of such products were reported as "excellent, 76 per cent compare favorably with white boys and girls under similar circumstances, and 13 per cent, while having raised themselves somewhat above the level of the Indians in the same environment, the result of their education can not be said to be good," and only "one per cent prove by their lives and actions that they have not been benefited." This new commissioner was called upon to furnish the data covering his contrary allegations, but failed to respond.

At the very same time he was publishing these outrageous misstatements this commission was paying many hundreds of Indians educated and qualified therefor in the nonreservation schools for their useful services in important positions throughout the Indian school and other service as school superintendents, teachers, disciplinarians, clerks, matrons, etc. No day-school products reach such usefulness.

While in office as a commissioner he secured the passage of a law by Congress prohibiting Indian youth from going away from the reservation for education until they had reached the age of 15 years.

Before his term of office as commissioner expired he was found so devious in furnishing information to one of the Indian Committees of Congress having in charge the compiling of the Indian appropriation bill, that the committee notified the Secretary of the Interior that they would not permit him to appear before the committee any more in reference to Indian matters; that the Secretary would have to send someone else or come himself.

Though out of office for quite a number of years, but still newspaper correspondent, magazine and book writer, this ex-commissioner continues to assert in favor of day schools among Indians and against nonreservation schools. In his recent book, "In Red Man's Land," he plausibly says:

"I have always believed that the key to the problem of Indian education lies not in establishing more of the big institutions, but in the multiplication of the little day schools to which the children can come every morning and from which they can go home every night. In the family circle the children describe the day's happenings at school, and the parents absorb unconsciously some of the message the teacher is bringing from the outside world. The teacher, in turn, catches some of the atmosphere of the home from the children and is able to do better work with them in consequence. Through the mutual understanding thus developed an opening is made for the missionary; and when you have a whole camp or village subject to the heaven, it seems to me you are contributing to a scheme of race elevation on pretty broad lines."

Against this view, I place this extract from a recent letter from a day-school teacher among the Indians in Arizona:

"Any one seeing these children at the opening of school would not think of such a suggestion. Their condition is beyond description though I shall endeavor to give you some idea. Their feet, hands, and neck are encrusted

like an alligator, with great cracks and sores on them. Their bodies covered with sores and their faces, in some cases, one solid scab. Their heads one solid mass of sores, caused by vermin. It takes several weeks to get them in shape, as their heads have to be hand picked for a while, for no comb can be used till the sores are cured up. I tried an experiment for two weeks, let them go without cleaning their heads of vermin, then cleaned them up and kept count of the vermin. One head produced a crop of seven dozen and the average was about five dozen. There were but two girls free or clean of vermin. I am going thus into detail so that you may know the conditions to be met and overcome.

"We kept all clothing here to keep it free of body vermin and from being infected with germs.

"One might ask, why should they have their heads cleaned of vermin so frequently. Well, their small sisters and brothers are so infected that they get a new supply every night. They sleep on filthy sheepskins, alive with vermin in many cases."

The facts are that, because of the lack of facilities and the inevitable circumstances surrounding Indian day schools, they do not free Indian youth from the vermin so universal throughout their camps. Neither is any material or quick progress in intelligence or ability gained. The assumption that day schools greatly help the family is proven by the results to be largely imaginary.

In the same book the ex-commissioner gives his oft-repeated and misleading statements against the quality, character, and results of the nonreservation schools, which are flatly contradicted by what I have already presented. His statements are not even plausible.

As a contrast to the sad experiences of the day-school teacher I have quoted, I have seen 40 Indian boys and girls arrive at one time at a nonreservation school, many of them from tribal schools. These boys and girls were not assigned rooms or permitted to go about the quarters until they were thoroughly policed; the boys under the direction of the disciplinarian had their hair cut by their fellow tribesmen already students at the school, who then used fine-tooth combs, and relieved their heads and bodies of all vermin. The girls under the direction of the matron, were also thoroughly combed. All were then put through the bath and clad in entire new clothing and made fit to occupy rooms with their predecessors. Their clothes brought from camp were put through the laundry and were found to be infected with thousands of body lice, so that thorough steaming and cooking was the only cure. In this non-reservation school every boy and girl had a fine-tooth comb and was required to daily keep their heads and bodies clean. Periodically, under the direction of the disciplinarian and the matron, the boys and girls had their heads combed by other boys and girls and the results reported until absolute cleanliness resulted. By this means the school was made and kept free from vermin.

I make this statement in closing: I have known ex-Commissioner Francis E. Leupp for more than 20 years. I doubt if there is one Indian in the United States who will say that Mr. Leupp ever took him by the hand and encouraged and materially aided him to enter the avenues of higher education and usefulness looking to citizenship. I have never found one such.

Mr. Leupp's general quality of queering himself in writing about Indians is well illustrated in his book, "The Indian and His Problems."

On page 162 he says, "Many Indians are fine blacksmiths, and one of the best of these is stone blind."

That any "stone blind" mechanic can possibly rank among the "best" of his craft is preposterous and that a "stone blind" person, dependent on the sense of touch to replace eyesight should rank among "the best" as a "blacksmith" is ridiculous. Think of a "stone blind" man making a shoe out of red hot iron, fitting it to a vicious mule and then nailing it on the animal.

His recent and latest book, "In Red Man's Land," by cute management, has been placed in the Sunday schools of our churches as a textbook to be studied according to a formula specially arranged. It is totally unfit for such uses.

The book contains nine pictures. The first picture in the book is a fabricated mendacity. It is a picture of two Indians wearing feathered war bonnets and in their native dress. Underneath it says "Present day warriors." The facts are that there are now no such Indian "warriors," nor have there been any of that sort for a good many years. The Indian warriors of to-day are regularly enlisted in the United States Army or Navy, serving just as all other Army and Navy men serve. The Government has had an army of Indian police to maintain order on the various reservations, but they wear only civilized uniforms.

This "Present day warriors" picture belongs to the wild west show business, which was especially nursed by this commissioner while in office. I was living in Denver, Colo., at the time, and five or six times during his term of office he loaned to the various great conventions assembling in that city, parties of Indians from the nearby reservations, who instructed thereto would come painted and feathered to ride in the parades and amuse the crowds. Having the official sanction of the Government through this commissioner, they gladly took the holiday outside their prison reservations at somebody else's expense and paraded themselves as desired, and thus led our people to conclude the Indians are incurably aboriginal.

I saw young men and young women that had been educated in Indian schools riding in these parades, thus misrepresenting themselves and their people. encouraged to do this by those in authority over them.

All of the other pictures in this book save one are pictures of the poverty of low Indian life, and therefore give a hopeless view. The one exception is a little frame house and a barn, styled "Indian Homes, the best of the new type." The chances are that it is a picture of the home of an Indian graduate of a nonreservation school and may have been constructed by himself through having learned the trade of carpenter, which all these schools teach. These graduates have long been and are leaders of their people toward civilized living.

Perpetual tribalism and the consequent endless control by the Indian system has always been the limit of Mr. Leupp's vision for the Indians and the basis for his arguments. This suits the system and all that profit by it. Slave holding thrived on limiting intelligence and could see no virtue in individual freedom and citizen chances for the negro. Indian holding has the same infirmity and therefore contends for the meager education and the continuance of the environment which will not disturb the Indian system. The churches through their similar segregating systems of Indian missions, unconsciously work hand in glove with, and accentuate the system. Defamation and clamor against the higher educated "returned student" is part of the campaign. It will not do to have Indians around who know better.

It was a stroke of genius that succeeded in getting Mr. Leupp's book about Indians into the curriculum of the Sunday schools, and of course enhances the sale of the book. But why should any church, through its Sunday schools, take up such a false text-book to misinform their students about real conditions among the Indians? The Rev. Thomas C. Moffatt, who is in charge of all Indian Missionary work of the Presbyterian church, has written, "The Indian on a New Trail," which is a very widely informing book about Indians and missions among them, far better adapted for church and Sunday school uses. It is filled with hope by statements of the progress the race has made, and contains pictures that well illustrate such progress.

My plan has long been voiced in this—to civilize the Indian, get him into civilization. Then keep him there and increase his usefulness. Having through bad treatment been made the most backward among our people, he needs and deserves the best chances in schools and in every other way in order to quickly reach his only place of safety, which is the ability to care for himself and his own property in competition with all other Americans, and free from all special system management. To get these qualities he must be environed by them, which is impossible in the tribe and reservation. To hold him to less than this only perpetuates the Indian system and is both cruel and criminal.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

Washington, January 11, 1919.

MY DEAR MR. HAYDEN: Referring to your informal inquiry relative to the status of the proposed bridges across the Little Colorado and Canyon Diablo Rivers, near Leupp, Ariz., for which there was provided in the Indian appropriation acts approved March 2, 1917, and May 25, 1918, the sums of \$42,500 and \$5,000, respectively, I have to advise you that the projects were advertised for bids and contract awarded to the Omaha Structural Steel Works for the construction of the bridges in the amount of \$42,470. On account of the great demand for structural steel by the Government for war purposes the contract carried a rider clause providing that if steel could not be shipped from the mills by October 1, 1918, the contract would become automatically void.

That this might be avoided a request was made of the Priorities Commission of the War Industries Board to issue an order for mill delivery of the steel, but

the request was refused and the contract with the Omaha Structural Steel Bridge Works, therefore became void. In anticipation that a contract would be effected an additional appropriation of \$5,000 necessary to complete the bridges was requested and the appropriation act approved May 25, 1918, carries the item which, however, is the only amount available as the original appropriation has lapsed. It is therefore suggested that the following or similar item be included in the appropriation act for 1920:

That the amount of \$42,500 appropriated for the construction of two bridges over the Little Colorado and Canyon Diablo Rivers, near the Leupp Indian Agency, Ariz., by the act approved March 2, 1917 (39 Stat. L., p. 975), or so much thereof as may be required, is hereby reappropriated and is made immediately available: *Provided*, That the said sum be reimbursable from tribal funds as required by the said act.

Sincerely, yours,

CATO SELLS,
Commissioner.

HON. CARL HAYDEN,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
BOARD OF INDIAN COMMISSIONERS,
Washington, January 9, 1919.

DEAR MR. HAYDEN: In September and October last, as a member of the Board of Indian Commissioners, I made a survey of conditions in the Navajo country, traveling over 750 miles through the several Navajo reservations in northeastern Arizona and northwestern New Mexico; the most interesting and thought-compelling investigation I ever made.

I found three basic problems pressing for an early solution—water, school, and land. The land problem immediately affects several thousand nonreservation Indians who occupy the public domain east and south of the Navajo, Moqui, and Leupp reservations. The school problem has over 6,000 factors; each factor is a Navajo child who can not attend school for the sole reason there is no school for it to attend. The water problem concerns every man, woman, and child, white and red, in that area known as the Navajo Country. With all the earnestness which is in me I desire, at this time, to direct your attention to the "water problem," which is the subject matter of an item in the pending Indian appropriation bill under the title "Water supply, Navajo Indians, Ariz. (reimbursable), \$50,000" and ask you to consider the following memoranda, based on my investigations touching that particular item.

A flock of sheep is the economic basis of the Navajo people. With sheep the Navajo Indians are independent and self-supporting. Without sheep they quickly would become a charge on the Government.

With the exception of a few thousand acres of agricultural land, susceptible of irrigation, all of the 14,000,000 acres occupied by the Navajo Indians with the reservations is classed as "rough grazing" land but millions of acres of this land, made up of mountains, canyons, dry washes, desert, and rock-clad mesa, are worthless for anything but picturesque, colorful scenery.

The grazing land is sparsely grassed; white stock men, when making leases, figure that 40 acres of "good grazing land" are required to feed a steer and 8 acres for a sheep. But "good grazing land" is the exception. Great areas of this country would be ruined through over-grazing if more than 10 or 12 steer or more than 50 or 60 sheep were run to a section. This is the judgment of white stock men who use the range in the Navajo country, not a guess on my part.

It is held by those competent to judge that a flock of 300 sheep is none too large to support an individual Indian and give him a chance to make a little profit. This would require a flock of at least 1,200 sheep for the average family. As a matter of fact, however, the average family flock is much smaller. This explains why a few Indians are well to do, a larger number are in comfortable circumstances, a still larger number are just about holding their own, and a considerable number are quite poor.

The outstanding facts are that the Navajo Indians, as a whole, are an upstanding, independent, self-supporting, rather proud and self-respecting people who are not all inclined to seek gratuitous aid. Over 95 per cent of the tribe is full blooded. The tribe is prolific and rapidly increasing its population. There

seems to be no dodging the probability that within a generation the tribe will be too large for the reservations under present conditions. This probability must be constantly borne in mind when dealing with the Navajo problems.

We can not change conditions of climate, topography, and grass growth but we can develop the underground water supply to largely increase available grazing areas and thus change the present discouraging economic conditions. Stock wells in grass areas where there is no water and which, therefore, are useless, make it possible to increase the number of flocks of sheep and that makes it possible for the land to support a larger population.

For two years the Navajo country has suffered from drought; white stock men are "getting out" of the country, either selling all their stock or keeping only their strongest helpers with the hope that this winter will bring plenty of snow. Both whites and Indians have been put to their wits end to "pull through" the abnormal seasons of the last two years. This drought emphasized two indisputable facts: (a) that the stock wells installed by the irrigation division of the Indian Service unquestionably saved tens of thousands of Navajo sheep from perishing from thirst and (b) that stock wells open up areas of land where there is grass but no water.

There are times, during the rainy season, when great floods, the run-off from mountains and plains and sometimes from cloud bursts sweep all before them, leaving behind wide stretches of sand-covered land. But those same floods give life to grass; where there are springs, stock wells, or living streams (the latter are very few) this grass is available for grazing purposes. But there are areas where there is absolutely no water for stock, and it is in such areas that the stock wells, equipped with windmills, pumps, tanks, and troughs have proved to be veritable godsend to the Navajo Indians.

A striking evidence of this was presented to me on the long road from Chin Lee to Kayenta. We ran into a country where was the best grass we had seen in our entire trip. All around was sun-baked, heat-killed "grazing land." The contrast was vivid, even startling. I was told that a cloud-burst, a couple of months before, had flooded that section, and my attention was directed to a stock well, at that moment surrounded by 800 sheep and goats, eagerly drinking from the brimming troughs.

The Indians with the flocks told me that were it not for the location of that particular stock well all that green grass covered district would have been worthless to them, for the nearest natural water supply—which was far outside of the grassy area—was 15 miles to the south at the base of the Black Mountains, and that the supply came from a few "seeps" which, in that waterless land, are dignified by the name of "springs." That well made usable thousands of acres of grazing land which, without it, would have been a mirage so far as the thirsty sheep were concerned. The few thousand dollars the well cost increased not only the economic but the actual money value of its area of beneficence several fold.

There are several chains of wells in the Navajo and Hopi countries (the Hopi Indians, as you know, share the Moqui Reservation with the Navajo). There are about 120 stock wells which have been installed by the Irrigation Division. The wells are from 6 to 8 miles apart, placed, after considerable study, with reference to accessibility, topographic conditions, underground water supply, prevailing winds, etc. Where there is plenty of grass sheep need not be driven to water more than three or four times a week but in this country, in the hot seasons, sheep must be watered every day. Sheep should not be driven more than three or four miles to water—cattle and horses can be driven further. All such considerations enter into the locations of stock wells.

I saw most of the wells put in by the Irrigation Division. I talked with many Indians and with Indian traders, stockmen, Indian Service men and missionaries. Without exception, they declared the stock wells saved the Indians from great loss this year and that every new well installed increased largely the productive capacity of the range. With few exceptions the licensed traders on Indian reservations are the best posted men on Indian affairs in their section.

Those in the Navajo country told me that in addition to supplying much-needed water for stock, in addition to opening up new grazing areas and in addition to making the stock-raising industry more stable, the wells were hastening the progress of the Indians toward civilization.

For instance, they said, Indians are buying wagons to carry barrels of water from wells to their homes where formerly they carried small casks or jugs on horseback to seeps and springs. That thus the wells are changing the road

maps of the country, for the Indians now use the roads from well to well instead of the narrow meandering trails which lead to springs. That the wells brought the Indians together more than formerly, and this made for sociability and more neighborliness. That the wells enabled the Indian to run larger flocks of sheep which provided more money for sewing machines, dress goods, hardware, etc. In short the Indians are coming out of their isolation, are growing less taciturn with white people and yet are maintaining their independent attitude so far as livelihood is concerned.

Taking everything into consideration no other appropriation made by Congress for the benefit of the Indians is getting quicker returns, doing more good and has greater value than the money appropriated for water supply for the Navajo. When I saw the old, rickety, worn out drilling machinery used by the irrigation division in the Navajo country I was amazed that so much good work had been accomplished. I think the \$50,000 asked by the Indian Office is a very modest sum. It is a reimbursable appropriation and I confidently venture the assertion that every dollar advanced for developing the water supply for the Navajo Indians not only will be repaid by them, either as individuals or as a tribe, but that, if the appropriation were several times larger it would be repaid. Indians who are so eager to better themselves that they perform labor moving well-driving machinery and hauling material without asking or getting pay are going to pay their debts and the Navajo Indians have given freely much labor, including the use of horses and wagons, to hasten the installation of stock wells,

You have been in the Navajo country and know its unique character, but one must make a long trip through it, as I did, to appreciate the true situation and real conditions which obtain there. Several strong opinions I held based on "hearsay" were completely changed after I had seen the country and listened to its people.

Faithfully, yours,

MALCOLM McDOWELL.

HON. CARL HAYDEN,

United States House of Representatives,

Washington, D. C.

Resolved, That the Committee on Indian Affairs of the House of Representatives hereby request the Secretary of the Interior, in submitting his estimates to Congress for future Indian appropriation bills, to consolidate under one heading all estimates of appropriations, whether gratuities from the Treasury, reimbursable appropriations, withdrawals from Indian funds, treaty items, or otherwise, so that the committee may have under each heading in the estimates, complete information as to the total sum of money requested for expenditure in each reservation, school, or other activity, together with a detailed statement under each heading of the total expenditure from all sources and funds during the previous fiscal year.

Resolved, That claims which antedate the fiscal year 1910 shall not be considered by the Committee on Indian Affairs until peace has been formally declared.

100458—19—7

CONDITIONS ON THE BAD RIVER RESERVATION, WIS.

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

JUNE 27 AND JULY 1, 1919



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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MAR 26 1920

CONDITIONS ON THE BAD RIVER RESERVATION, WIS.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, June 27, 1919.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. As you gentlemen see, there is a delegation here representing the Bad River Reservation that desires to be heard on some questions unknown to the chairman. I would like to know who is here representing the band or tribe, so that we may get started with the hearing.

STATEMENT OF HON. ADOLPHUS P. NELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN.

Mr. NELSON. Mr. Chairman and gentlemen of the committee, may I be permitted to state to you that this delegation representing the Bad River Indian Reservation has been here for several days, or possibly weeks. They are here in the interest of a matter which is of deep concern to them, and they desire to present their case to the committee this morning in the hope that you may accord them a full and sympathetic hearing. I want to say for them that they very greatly appreciate the kindness which you have extended them in calling this meeting this morning. I will at this time present to the committee Mr. Henderson, their counsel, and Mr. Holliday, who will present to you the band consisting of five chiefs and several others.

The CHAIRMAN. Which one of the gentlemen desires to be heard first?

Mr. NELSON. Mr. Henderson.

STATEMENT OF DANIEL B. HENDERSON, WASHINGTON, D. C., REPRESENTING THE LAPOINTE BAND OF CHIPPEWA INDIANS.

The CHAIRMAN. Please state in what capacity you appear, what your position is with the tribe, and whom you represent.

Mr. HENDERSON. Mr. Chairman, I appear at the request of this delegation of the Lapointe Band of Chippewas, who are from the Bad River Reservation in the State of Wisconsin, and whom I have represented in a way for 10 years or more, having been first sent to their reservation at the request of the Commissioner of Indian Affairs to assist in adjusting some difficulties arising out of school and swamp land questions. Since that time the Indians have seemed to feel at liberty to call upon me for general services, and they came

to me in this matter that we hope will be made by Congress to include practically all of their unsettled questions.

The CHAIRMAN. Is more than one delegation here, or are there two factions here, or are all of them representing the same claims?

Mr. HENDERSON. If there are two factions, we do not know it. There is what might be called a delegation in the city, we are informed, and possibly there may be representatives of that body here—

The CHAIRMAN (interposing). I want to ask now if there is any delegation here representing the other side of this question, or is there any controversy?

Mr. HENDERSON. I think I can state that, perhaps, very briefly. Mr. Chairman. The delegation here represents the band as a whole, having been sent here under resolutions adopted by the general council of the Indians. They have on that reservation what is known as a business committee, consisting of 10 or 12 men who are appointed by the Commissioner of Indian Affairs or under the direction of the Indian Bureau. To that extent there are factions. These people are seeking to avoid any longer the assistance or interference of that business committee, and they are seeking to have their tribal matters conducted as has been usual in the tribe through a general council. There are two, if not three, members of the business committee in the city, and this delegation would be very glad to have them present. They seek, indeed, to have them present at any meetings where they appear, because if there is any difference between them, we would like to have it stated. The main difficulty that these people are now trying to overcome is the objection of the Indian Bureau to having their tribal roll completed according to the views, ideas, and wishes of the tribe or band, and at their request I have prepared a bill which I think is comprehensive enough to do that.

It is also intended to enable the Lapointe Band, if possible, to go into the Court of Claims and to have settled there any tribal controversy or any claim that they may have against the United States, as well as any claims that individual members of the tribe may have by reason of any loss or damage that he or she has suffered by reason of any failure on the part of the Government to fulfill the treaty stipulations of the Government or on the part of the Indian Bureau officials to accord to any member of the band or anyone claiming the right of membership in the band those rights to which they are entitled under the treaty. These men are very intelligent men, and you will find by hearing them that they are fairly well versed in their own affairs, as most well-informed Indians are apt to be about their own matters. They are here to speak for themselves, and they can enlighten the committee without the aid of counsel. They can enlighten the committee on any practical questions.

The CHAIRMAN. Will you give the committee a brief outline of what the delegation is here for, so that we may go into it?

Mr. HENDERSON. In the first place, they want to have you report a bill for enactment by Congress sending them to the Court of Claims for the adjudication of any controverted questions growing out of claims which the Lapointe Band or organization may have against the United States that involve treaty stipulations or any agreements made between the tribe and the Government. Secondly, and, perhaps, I might say, chiefly, they want to be sent to the Court of

Claims to have the court adjudicate the rights of, perhaps, 100 persons who have claimed membership in the band and whose claims have been denied by the authorities of the Indian Bureau.

Mr. CARTER. In other words, you want to take the making of the roll of the tribe out of the hands of the Interior Department and place it in the hands of the courts?

Mr. HENDERSON. Well, in this instance, since 1854 the rolls of the Bad River Lapointe Band have been made, or were made for many years, strictly in conformity with the provisions of the treaty and entirely in accord with the views of the tribe. Twenty years ago or less the Indian Bureau sought to substitute for that a method of their own, whereby the roll has been made under the direction of the Indian Bureau. This has led to the greatest confusion and dissatisfaction among the members of the tribe. The last roll that was made was called the Wooster roll, which was made pursuant to an act or bill that I drafted for the Bad River Band, and which was passed, I think, in 1915 and under which Dr. Wooster, as a single representative of the Indian Bureau, was sent to the Bad River Reservation to enroll those persons who had not previously been allotted and who were supposed to be entitled to enrollment as members of the bands. The doctor found some 500, in round numbers, entitled to enrollment, and he rejected perhaps two or three hundred who thought that they were entitled to enrollment. The result of this enrollment was that the list of members for report was submitted here to the Indian Office and by the Indian Office referred to the Secretary of the Interior. It was to be finally confirmed and approved by the Secretary and made a final thing within a very short time limit.

Two or three days before the time limit had expired representatives of the band telegraphed me that they would be here to resist the confirmation of that roll. They came and went before the Commissioner of Indian Affairs. He heard them for an hour or two, and then promptly said that it was evident that they were entitled to a further hearing; that the roll ought not to be approved, and that if he had it in his power he would revise the roll or that he would give them a chance to revise the roll. He decided to do that before the time limit expired, and he appointed a committee of three persons, one of whom was Dr. Wooster, who had previously made the roll unassisted. Those three commissioners, Dr. Wooster, Maj. McLaughlin, and Mr. McPherson, the latter two being old Indian Office employees, were constituted a commission to revise that roll. The Indians requested me to come up and assist them, and I appeared and spent perhaps a month with that commission on the Bad River Reservation, with the result that perhaps two or three hundred cases were heard, and this perfect roll that Dr. Wooster had insisted should not be changed because there was not one person on it that ought not to be on it and none left off that ought not to be left off was largely revised, or to the extent of 25 or 50 names, some of them being taken off and others added to it. The Indian Office was thereby convinced that their judgment on this subject was not infallible, and they were rather inclined to be indulgent to these people, but nothing came of their request for a complete rehearing, and that roll stands incomplete to-day.

Mr. RHODES. Which roll is recognized, the roll recommended by the three commissioners, or the Wooster roll?

Mr. HENDERSON. The roll that was recommended by the three commissioners. The Indian Office receded from its position that the Wooster roll was correct.

Mr. RHODES. That answers the question Mr. Carter asked you does it not?

Mr. HENDERSON. No, sir; that does not answer Mr. Carter's question. Now, Mr. Chairman and gentlemen of the committee, the contention of the Bad River Band is not that there is anything wrong about the Indian Office roll because it is the Indian Office roll, and not that the Indian Office or Interior Department is not the proper tribunal or the proper body or authority for making the rolls, because all of us know that they have to be made in that way and they can be made very satisfactorily in that way, as Mr. Carter knows from his large experience, up to a certain point. Then you come to a class of cases, or you come to a line where it is a judicial question, and it is no longer a question for an executive body to pass upon, but it becomes a question of law as to whether the Indian is entitled or is not entitled to membership in the tribe, such membership carrying with it a number of important rights, including the right of allotment and the right to a distributive share of the tribal property. That is the point to which the Lapointe Band has come now. They have reached the line where the Indian Office says, "You shall not have any more people on that roll," and they want to appeal to the court.

Mr. CARTER. Have the Indians themselves ever agreed to the approval of that roll?

Mr. HENDERSON. No, sir.

Mr. CARTER. You remember, of course, because you have been practicing here for some time, the experience that the Five Civilized Tribes had with their enrollment. The Interior Department undertook to make the roll for the Five Civilized Tribes, and it made one, although it was not complete. Then, by some maneuver, which was never understood by the Indians, the matter was transferred to the courts, or, rather, an appeal was given to the courts, which was very unfortunate for the Indians, because after that appeal they revised the entire roll by adding some 3,400 people, the most of whom did not have one drop of Indian blood. Many of them attempted to prove their rights to Choctaw, Chickasaw, and Cherokee tribal membership through Pocahontas, who did not belong to any of those tribes at all. The courts not having had experience in those matters, settled them along lines applicable to United States citizenship, and admitted those 3,400 interlopers at a cost to the tribe of \$1,000,000, as the gentleman knows, in having those matters straightened out. The case finally came to the Supreme Court of the United States, and the Supreme Court of the United States laid down the rule, so far as those tribes were concerned, that in order for a man to become a citizen or member of one of those tribes, with the rights and emoluments that went with citizenship, he must have three things; first, a blood status; second, a residence status; and, third, he must have had affiliations with the tribe. Now, are there any such requirements applying to the Bad River Band?

Mr. HENDERSON. Yes, sir; it would apply to that band, and that principle was looked at from both sides. Now, I want to call your attention to the other side of that question, bearing directly upon the Five Civilized Tribes: I had to do with the case of the intermarried

whites, which went through the Court of Claims to the Supreme Court. That was a Cherokee case. In that case the Indians, being opposed to the opening up of their rolls to a lot of men who did not belong there, against the will, wishes, and policies of the Interior Department, were able to remove from their rolls 1,500 intermarried whites and save to their tribe a million dollars. Now, applying the principles in that case, your people ultimately got their relief, not through the Department of the Interior or through any executive department, but you got it through the courts, and that is the only kind of tribunal that is so constituted that it can properly settle those questions.

Mr. CARTER. That is true, but we had to go back to the court. The Interior Department could not overturn the decision of the court, but Judge Townsend, who was a good Federal judge, afterwards, in the case of *Ikard v. Minter*, reversed himself completely upon the position that he had taken that residence and affiliation were not necessary for citizenship.

Mr. HENDERSON. All of those questions are questions which should come before the proper courts, and surely I can say on behalf of my Lapointe Band friends that if Congress does not send them to the court, and if the Court of Claims and the Supreme Court of the United States, in passing upon the roll made by the Secretary of the Interior and the Commissioner of Indian Affairs, find them so perfect that not one name on them should be changed, that the name of not one person should be added to the rolls, nor a single name taken from the rolls, they will go forth as perfectly satisfied as any of us would be, feeling that they had had their day in court, and feeling that they were mistaken if any of them believed that they had been overlooked or disregarded by their guardian in looking after their rights. But, as it stands to-day, there are 100 or 200 people on that reservation that believe they are entitled to be on this roll. There are men here 70 years old who were born and raised on that reservation and who have lived with that tribe all the time, and they have assisted from the time they were old enough to sit in council in the making of the tribal rolls of that band. They will tell you about this. George Messenger and Tom Cloud, and many of these younger men, but especially these older men will tell you. Now, the Indian knows his rights, and he knows the law that covers his tribal property. I have found from 20 years' constant practice and experience and from living among them that they know their tribal rights just about as well as the white man knows his statutory rights and privileges. These men will tell you that there are scores of people on that reservation to-day that in their opinion are just as much entitled to enrollment as many that were put on the roll by Dr. Wooster.

Mr. WOOSTER. These are the Lapointe Indians?

Mr. HENDERSON. Yes, sir; the Lapointe Indians.

Mr. CARTER. The Lapointe Band of the Chippewa Tribe?

Mr. HENDERSON. Yes, sir. They claim their right under the treaty of September 30, 1854, at which time the Mississippi Band and the Lake Superior Band were separated, and those people were divided up into six or seven distinct bands within the Chippewa Nation, for whom special provision was made by the States of Michigan, Wisconsin, and Minnesota.

Mr. CARTER. Is there any tribal council now that represents those people who have been placed on the roll and allotted?

Mr. HENDERSON. Yes, sir; these people you see——

Mr. CARTER (interposing). I thought these people were not on the roll.

Mr. HENDERSON. They are all on the roll, with one or two exceptions.

Mr. CARTER. If I understand you, the tribal authorities themselves are seeking to have the matter opened up?

Mr. HENDERSON. They are trying to have this opened up. This old man over here, Tom Cloud, is the husband of a woman who has given \$1,000 of her own funds, although she has not one penny of interest in it; she has no children to be benefitted by it, but she gave \$1,000 out of her own funds to pay the expenses of this delegation so that they might come to Washington and present to Congress a statement of what is being done on their reservation by the Interior Department.

Mr. CARTER. Is she a Lapointe Indian?

Mr. HENDERSON. She is a Lapointe Indian.

Mr. ELSTON. Is she on the roll?

Mr. HENDERSON. Yes, sir.

Mr. CARTER. She gave her money in order to get this delegation here?

Mr. HENDERSON. Yes, sir; in order that they might apply to Congress for the assistance that is denied them by the Indian Bureau.

Mr. COLE. What is the blood test for getting on the roll?

Mr. HENDERSON. Chippewa Indian blood, or Lake Superior Chippewa Indian blood.

Mr. COLE. Full blood?

Mr. HENDERSON. No, sir; they have the same provisions that obtain in most of the other tribes.

Mr. CARTER. Have the Lapointe Indians a chief?

Mr. HENDERSON. George Messenger was the highest recognized and last chief.

Mr. CARTER. Was he elected?

Mr. HENDERSON. He inherited it from his father, who was the head chief of the tribe. George Messenger inherited it from his father, and they have recognized him since about 35 years ago.

Mr. CARTER. He is the hereditary chief?

Mr. HENDERSON. Yes, sir.

Mr. CARTER. He is recognized as chief by all the members of the tribe?

Mr. HENDERSON. Not if they are on the Wooster roll and if some one else is trying to get on there so as to lessen their distributive share.

Mr. CARTER. He is on the roll?

Mr. HENDERSON. Yes, sir; and he can get nothing more out of this.

Mr. CARTER. Is he recognized by the Interior Department as chief?

Mr. HENDERSON. When it is desirable to get something done up there on the reservation that his influence would obtain, I think he is; but as in most other cases—and I say this very respectfully, and I do hope that anything I say will not be misconstrued as indicating any disposition to minimize the good that is in the Indian Office——

The CHAIRMAN (interposing). Mr. Elston desired to ask you a question a moment ago.

Mr. ELSTON. What I want to know is this: I understand that this delegation is composed of people who are on the rolls and who are members of the tribe, and that they would be benefited to the full extent of the rolls as they exist, because they are not left out. Now, do you mean to say that they are here to ask for the enlargement of those rolls, thereby prejudicing their own financial interest by having a larger number to participate in the distribution of the property of the tribe, so that you might say that they are here in a very unselfish and altruistic way?

Mr. HENDERSON. Yes, sir.

Mr. ELSTON. It is rather unusual for men who have that sort of interest to come here clamoring for the admission of others to the roll, which would mean that their own shares would be considerably lessened. That is at least one thing, I think, in their favor. Their disinterestedness could only be minimized by the fact that these other persons for whom they seek admission to the rolls are related to them by marriage or by other family connection in such a way that this particular delegation might be individually enriched by it.

Mr. CARTER. The feeling of the Indian in such cases goes farther than that. I do not recall that I have ever seen an Indian—and I know I have never seen a fullblood—who would deny citizenship to any other man that he believed was an Indian and entitled to citizenship.

Mr. ELSTON. That is a rather unusual thing. You would find in most cases that self-interest would work in such a way that these men would take the opposite position.

Mr. CARTER. They do have a feeling different from that of white men in that regard.

The CHAIRMAN. Do you want to make an answer to Mr. Elston's question?

Mr. HENDERSON. I am afraid it would be too discursive if I attempted that. It is a very interesting subject and I would like to speak on it, but Mr. Carter has probably answered it for me.

Mr. CARTER. The thing that prompted our tribes to make such a fight in the citizenship cases was the fact that they brought in a lot of freckled-face people who did not have any Indian blood in their veins. They were not Indians at all, although under the court's decision they became Indians. They were not fighting them so much as a matter of dollars and cents, but they were fighting to preserve the integrity of their tribes.

Mr. RHODES. You have stated that this gentleman sitting over here is sometimes recognized as the chief. Is he recognized as the chief by the Indian Bureau in Washington?

Mr. HENDERSON. Probably no one is recognized more than Chief Messenger.

Mr. RHODES. Are there others who are recognized?

Mr. HENDERSON. There are others recognized as chiefs in the band. Since I have known the band, in 1910, there were three principal chief men who were always recognized as principal chiefs. They were George Messenger, Moses White, and James Doolittle. George Messenger and James Doolittle survive, and Moses White is dead. James White, jr., the son of Moses White, is recognized as the successor of his father.

The CHAIRMAN. I believe you stated in your opening remarks something about a business committee for this tribe. Does the tribe as represented here have a business committee, or is the business committee on the other side of the question?

Mr. HENDERSON. The business committee is the other side, if there is any other side to this question. I do not know that there is, but they are opposed to the chiefs and head men meeting in council and conducting the affairs of the tribe as was done under the treaty for so many years. They have a star chamber procedure, as these people will tell you. They have a star chamber procedure by which they seek to control the affairs of the tribe in anything that concerns the Indian Bureau.

The CHAIRMAN. Then, as I understand it, the business committee is the real representative of the Indian Office and works with them?

Mr. HENDERSON. That is the contention of this delegation, and I am inclined to think that is true from what I know about it.

The CHAIRMAN. Who is here that can tell us something upon that side of the question?

Mr. HENDERSON. I think any of them you might call on. Mr. Holliday, perhaps, could tell you, or Mr. James La Fernia.

The CHAIRMAN. I think we understand the contention with regard to the roll, but I would like to hear from some one who can tell us why anybody is opposed to that.

Mr. HENDERSON. For fear my statement may have been misconstrued, may I add one word to what I have said to Mr. Elston and to the committee a moment ago?

The CHAIRMAN. Certainly.

Mr. HENDERSON. There are cases, gentlemen of the committee, where it is a mixed question, perhaps, or what would be considered by you a mixed question of interest, and I can illustrate that by one case. Henry Holliday is the secretary of this delegation, and he was an applicant for admission to the Wooster roll, but he was denied.

Mr. CARTER. On what ground was he denied?

Mr. HENDERSON. I can not state it accurately enough to justify me in putting Dr. Wooster and his associates in the position of having been judicial arbiters of that matter. I can only say that I can not understand why he was denied; but what I desired to say to the committee was that while Henry Holliday is here in his own interest in a way, he is one of the very few that are seeking admission to the roll. He has a large family of children, all of whom will be injured and all of whom will be losers by reason of the elimination of their father from membership in the tribe.

Mr. CARTER. Was the roll made up so as to include only those who applied on or before a certain date?

Mr. HENDERSON. The roll was originally made under an act of Congress. It was the act of 1915, I think, and that act provided for closing the roll by a certain date, but it was not closed, and I have explained to the committee how it was held open.

Mr. CARTER. On what date was it first ordered to be closed?

Mr. HENDERSON. Within six months after the passage of the act, I think. This act was passed August 1, 1914.

Mr. CARTER. Were all persons required to come before Dr. Wooster prior to the expiration of that six months in order to obtain enrollment?

Mr. HENDERSON. I do not know whether they were required, but they were notified to come. Ample notice was given, and most of them did come.

Mr. CARTER. I understand the objection to be that a lot of them were left off. Were they left off on account of not having made proper application?

Mr. HENDERSON. No, sir; there were a few such cases, but most of them were simply turned down as not being entitled.

Mr. CARTER. Now, when this second roll was made up by the three commissioners was there any time limit fixed for closing the roll?

Mr. HENDERSON. Not that they were given any notice of, so far as I recall. The Indian Office held it open, or the Secretary did.

Mr. CARTER. That must have been under a regulation or order issued for the opening of the roll. Have you a copy of that order or regulation?

Mr. HENDERSON. I have a copy of that, but I think there is no time limit set in it.

Mr. CARTER. When was the time set for the final closing of the roll?

Mr. HENDERSON. I do not think there has ever been any.

Mr. CARTER. Was notice ever given for them to come in prior to the time of closing the roll?

Mr. HENDERSON. I think not. I should have brought a copy of that order with me.

Mr. CARTER. Now, just one other question. Have the men on the rolls been individually allotted?

Mr. HENDERSON. They have.

Mr. CARTER. Have they any unallotted lands?

Mr. HENDERSON. Yes, sir.

Mr. CARTER. How much unallotted lands have they?

Mr. HENDERSON. Under a recent decision of the Supreme Court of the United States they were saved the school and swamp lands. The acreage I do not know, but they think they have enough to allot practically 80 acres to all who are claiming allotment that they think are entitled to allotment.

Mr. CARTER. The thing they want to do, instead of selling this land and dividing the proceeds among the enrolled Indians is to have those lands allotted to those whom they think are entitled to allotment and have not yet been enrolled?

Mr. HENDERSON. That is their desire; yes, sir.

Mr. CARTER. How many are there on the rolls at the present time?

Mr. HENDERSON. The Wooster roll—

Mr. CARTER (interposing). The final roll.

Mr. HENDERSON. The additions to the roll include about 500, as recall, 545.

Mr. CARTER. How many are there claiming?

Mr. HENDERSON. I do not know.

Mr. CARTER. Have you any idea?

Mr. HENDERSON. I should say at least 200.

Mr. CARTER. How much would 80 acres of this land be worth?

Mr. HENDERSON. If it had timber on it, it might be worth \$20,000.

Mr. CARTER. Eighty acres would be worth \$20,000?

Mr. HENDERSON. In some cases; from \$5,000 up to \$20,000.

Mr. CARTER. There would not be any lack of applicants, I assume?

Mr. HENDERSON. No, sir.

The CHAIRMAN. That is, if it had timber on it?

Mr. HENDERSON. Yes, sir.

The CHAIRMAN. Suppose it did not have any timber on it?

Mr. HENDERSON. Then, I would have a very poor idea of what the value was, because of the cost of clearing the land. It would probably make very good agricultural land.

The CHAIRMAN. What is the nature of the land, is it timber land or untimbered land?

Mr. HENDERSON. Some timbered and some untimbered, some of it swamp land, and some of it just cleared farm land. There is not much of it, I think, that is not allotted to the persons who have lived there all their lives.

Mr. CARTER. Some of the 80 acres would be worth \$20,000 and the other you can not tell what it would be worth?

Mr. HENDERSON. Yes, sir; according to the timber.

The CHAIRMAN. Is that all, Mr. Henderson?

Mr. HENDERSON. Yes, sir.

STATEMENT OF MR. H. E. HOLLIDAY.

The CHAIRMAN. Mr. Holliday, are you an interpreter?

Mr. HOLLIDAY. Yes, sir; but they have two interpreters here, Mr. LaFernia and Mr. Bachand.

The CHAIRMAN. Do you desire to speak for them or do you desire to have one of the chiefs make a statement through you?

Mr. HOLLIDAY. I would prefer very much that the chief make a statement through the interpreter. I just wanted to say in reply to Mr. Carter's question as to how much 80 acres would be worth, it is true that some of the 80 acres would be worth, I would say, \$20,000, that is, the timber on the 80 acres, but there are other 80 acres that would not be worth very much, possible \$200, but the Indians do not want the timber value to go to the allottee; they want an equal division of the timber so when the final allotment is made each one will have an equal share.

Mr. CARTER. They want the timber sold and the money divided so as to equalize the value?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. You are one of the Indians who have been refused enrollment?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. I should like to have you state, first, why you were refused enrollment?

Mr. HOLLIDAY. Gentlemen, I have never had any reason given me why I was refused. I appeared before the Wooster committee and made my application at that time. They questioned me as to my reasons for wanting to be enrolled. I gave those reasons. After that hearing I was denied any further hearing. They went into secret session and they disposed of my case like every other case, and I never knew until the rolls were closed, so far as they were able to close them, and were sent down here to Washington, that I was not on that roll.

Mr. CARTER. Did you apply within the time limit?

Mr. HOLLIDAY. Yes, sir.

Mr. ELSTON. Did most of the members appear to feel that you should be put on?

Mr. HOLLIDAY. Yes, sir.

Mr. ELSTON. And they were acquainted with your family?

Mr. HOLLIDAY. Yes, sir.

Mr. CARTER. You are a La Pointe Indian?

Mr. HOLLIDAY. Yes, sir.

Mr. CARTER. I will ask you two or three questions. Are you a full blood?

Mr. HOLLIDAY. No, sir; I am about a half.

Mr. CARTER. Were your mother and father both Indians?

Mr. HOLLIDAY. Yes, sir.

Mr. CARTER. What degree of blood was your mother?

Mr. HOLLIDAY. Very nearly a quarter Indian.

Mr. CARTER. And your father?

Mr. HOLLIDAY. Just exactly a half.

Mr. CARTER. You are about three-eighths. Were they both La Pointe Indians?

Mr. HOLLIDAY. No, sir; they were both Lake Superior Chippewas. Prior to 1854 they were in existence. They are all one people.

Mr. CARTER. Which one was a La Pointe Indian, your mother or father?

Mr. HOLLIDAY. My mother was a La Pointe Indian.

Mr. CARTER. Was your father enrolled with the La Pointe Indians?

Mr. HOLLIDAY. He was, and before the treaty of 1854 he received his payment as a La Pointe Lake Superior Chippewa, but in 1859 those reservations were set aside. He elected to go to L'Anse to make his home.

Mr. CARTER. That was off the La Pointe Reservation?

Mr. HOLLIDAY. Yes, sir.

Mr. CARTER. Your father was not a resident of the La Pointe Reservation?

Mr. HOLLIDAY. No, sir.

Mr. CARTER. And your mother left with him when he went off the reservation?

Mr. HOLLIDAY. No, sir. She grew up at La Pointe, but later on married my father who resided at L'Anse.

Mr. CARTER. But she moved off the reservation with your father?

Mr. HOLLIDAY. They moved from the La Pointe Reservation. There was no reservation at that time. My mother is 87 years old.

Mr. CARTER. She is living now?

Mr. HOLLIDAY. Yes, sir; she is living now.

Mr. CARTER. She is on the roll?

Mr. HOLLIDAY. On the L'Anse roll.

Mr. CARTER. But you are not on the L'Anse roll or the La Pointe roll?

Mr. HOLLIDAY. I am on no roll.

Mr. RHODES. On what grounds do you claim the right to be enrolled?

Mr. HOLLIDAY. I claim to be a Lake Superior Chippewa, in the first instance, and I claim that my mother had a right as a La Pointe Indian to be enrolled on the Bad River Reservation under the treaty stipulation, the second article of the treaty of 1854. I claim to have a right to be enrolled under that reservation.

Mr. CARTER. You have never been placed on any roll?

Mr. HOLLIDAY. Yes, sir; I have been placed on the Bad River roll.

Mr. CARTER. Did you receive any benefit from that enrollment?

Mr. HOLLIDAY. I received \$5.57. That is all I have ever received as an Indian.

Mr. CARTER. Was that all that the Indians ever received on that roll?

Mr. HOLLIDAY. At that time. That was when they had money to distribute among them.

The CHAIRMAN. Do you want to call on one of the chiefs to make a statement?

Mr. HOLLIDAY. I should like to have Mr. George Messenger make a statement. He is our senior chief and is recognized by the tribe as their principal chief.

The CHAIRMAN. We will be glad to hear from Mr. Messenger.

**STATEMENT OF MR. GEORGE MESSENGER, CHIEF, THROUGH
INTERPRETER JAMES LA FERENIA.**

The CHAIRMAN. Whom do you represent?

Mr. MESSENGER. I represent the band of Chippewa Indians on the Bad River Reservation.

The CHAIRMAN. Please tell us, in your own way, why you want the roll opened up and other Indians of the tribe put on.

Mr. MESSENGER. The reason why I want that done is that the roll is under the regulation of the treaty, which my father signed at La Pointe, and I do not want anything wrong to be added to that treaty.

Mr. ELSTON. You do not want anything wrong to be added to the treaty?

Mr. MESSENGER. Yes, sir.

Mr. ELSTON. Do you want the treaty opened so as to add new names or to strike off names?

Mr. HENDERSON. That roll was made up to the disadvantage of the band, and I requested that the roll, after it was completed, should be called so that the band could hear and recognize the names and members put on it, but I could not get that request granted.

Mr. HOLLIDAY. If you will pardon me, the practice heretofore of making up the rolls up there was when they finished making up the tentative roll they got the agent down and published the roll, and the general council and the band themselves approved or disapproved of every member on that roll. That is what he means when he says that he made his wish known that the roll be published before it was sent down here for approval. That was denied him.

Mr. ELSTON. Did you ever see the roll yourself before it was sent down here finally and passed upon or did the council see it?

Mr. MESSENGER. No, sir; I have never seen the roll and do not know whose name was put on the roll. After they got up the roll they closed it and forwarded it to Washington.

Mr. ELSTON. Have you ever seen the roll since?

Mr. MESSENGER. I never have.

Mr. ELSTON. Do you know, of your own knowledge, whether that roll is correct or is not correct?

Mr. MESSENGER. I say that the roll was not made correct.

Mr. ELSTON. If you have never seen the roll, how do you come to that conclusion?

Mr. MESSENGER. For the reason that there were some people put on that roll who had received an interest on other reservations and who had no right to be put on that roll.

Mr. ELSTON. Do you know any persons who are not on the roll who should be on the roll?

Mr. MESSENGER. Yes, I know of some; and some have died who ought to have gone on the roll.

Mr. RHODES. How many?

Mr. MESSENGER. To my judgment there might be 20 or more that are members of the band entitled to enrollment.

Mr. CARTER. Chief, how old are you?

Mr. MESSENGER. I never kept track of my age, but you can use your judgment as to how old I am.

Mr. CARTER. What I want to know is how long you have lived among these people.

Mr. MESSENGER. I was born and raised there and have lived all my life so far there.

Mr. CARTER. What do you do, Chief, on the reservation, what is your business?

Mr. MESSENGER. I am interested in farming and improving the land, raising stock. I trade off my stock for my support. That is my business, farming.

Mr. CARTER. You are a La Pointe Indian, Chief?

Mr. MESSENGER. Yes, sir.

Mr. CARTER. You are one of the enrolled La Pointe Indians?

Mr. MESSENGER. Yes sir.

Mr. CARTER. You drew an allotment of land yourself?

Mr. MESSENGER. Yes, sir.

Mr. CARTER. Have you any relatives who are La Pointe Indians entitled to draw land and who did not?

Mr. MESSENGER. I have.

Mr. CARTER. What relationship do they bear to you, Chief?

Mr. MESSENGER. I have some near relatives and also some distant relatives.

Mr. CARTER. Can you tell us, Chief, who they are and their relationship to you?

Mr. MESSENGER. Mr. Thomas Cloud is my brother and Mr. John Frost is my nephew.

Mr. HOLLIDAY. Cousins among the Indians are considered brothers.

Mr. CARTER. When on the mother's side?

Mr. HOLLIDAY. Yes, sir.

Mr. CARTER. Did you and this man [indicating] have the same father and mother?

Mr. MESSENGER. We had different fathers, but one grandmother.

Mr. CARTER. Is this man's mother [indicating] a sister to your mother?

Mr. MESSENGER. I do not know, but our fathers were brothers.

Mr. CARTER. Your fathers were brothers?

Mr. MESSENGER. Yes, sir.

Mr. CARTER. You are the chief of the La Pointe Band of Chippewas?

Mr. MESSENGER. Yes; my father was chief and when he died he left me the chiefship and so I carry the medal [exhibiting] that he used to have.

Mr. CARTER. Are you recognized by the Interior Department and the Government as Chief of the La Pointe Band of Chippewas?

Mr. MESSENGER. My father was recognized as chief by the department, and I can not see why I am not. I have some papers, but I have not them with me; I left them with Mr. La Follette to be repaired.

Mr. CARTER. Are you recognized as chief by the members of the tribe?

Mr. MESSENGER. Yes, sir.

Mr. CARTER. Has the Interior Department ever refused to recognize you as chief?

Mr. MESSENGER. I can not say, but I was recognized in Odanah by the appointment of a business committee.

Mr. CARTER. You did appoint a business committee and the department recognized it?

Mr. MESSENGER. I was recognized before this business committee was appointed by the council at Odanah, but since that time I have not been recognized as chief.

Mr. CARTER. Who appointed the business committee?

Mr. MESSENGER. There were some of the Indians who belong in Red Cliff, Wayville, who came to attend the council and helped to appoint this committee as a business committee, but I did not.

Mr. CARTER. You did not attend that meeting?

Mr. MESSENGER. I entered the council when it was pretty nearly over.

Mr. CARTER. Have you ever been recognized as chief since the business committee was appointed?

Mr. MESSENGER. When I entered the council I asked our Indian agent to postpone the council for a few days until the balance of the band, that is, the Indians on the reservation, could consider the Armstrong resolution which he presented in council. When I made the request for the council to be postponed, I was not recognized by my Indian agent and also the treaty was not recognized.

Mr. CARTER. Who called the council, Chief?

Mr. MESSENGER. It was Mr. Everest, our Indian agent, and Mr. Charles D. Armstrong.

Mr. CARTER. Did they consult with you or the tribal authorities about calling it?

Mr. MESSENGER. There was a notice posted in the town of Odanah, in the village, stating that this council would take place at a certain date. At the time the council was to be held there was a camp meeting going on in Odanah and there was quite a number of our people at that camp meeting. Mr. Everest the day that the council should take place was asked by the members of the camp meeting if he would postpone the council until the next day so as to give every person attending the camp meeting a chance to come and attend the council. He granted that he would but he did not.

Mr. CARTER. Was the conference generally attended by the members of the tribe?

Mr. MESSENGER. No, sir.

Mr. CARTER. Chief, prior to that time you had been recognized as the principal chief of the La Pointe Indians, had you not?

Mr. MESSENGER. It was known generally that I was chief on the reservation.

Mr. CARTER. This meeting was called, without consulting you and the meeting was held without any notice given to you except that posted in a public place?

Mr. MESSENGER. There was no one who told me about this council which was to take place. Of course, I can not read and I could not make out what the notice called for, only what I got by hearsay in regard to the council.

Mr. CARTER. When was this conference held, Chief?

Mr. MESSENGER. On the 15th day of July, last year.

Mr. CARTER. When?

Mr. MESSENGER. On the 15th of July, last year.

The CHAIRMAN. Chief, what, in your judgment, was the reason for the appointment of this business commission?

Mr. MESSENGER. I can not say how that came about, whether it was issued from the department or whether it was issued by the Indian agent himself, or whether Mr. Armstrong suggested it.

The CHAIRMAN. That is not exactly what I wanted to know. I want to know what you think was the reason that the business commission was instituted or put into operation?

Mr. MESSENGER. Mr. Armstrong has been on the reservation for the last 20 or 27 years trying to be ruler and controller of the band. I believe that he presented the resolution to get the power to rule the band. That is the only thing I can understand.

The CHAIRMAN. Before this commission was appointed the chief was executing the power over that tribe through the council of the tribe. Is that correct?

Mr. MESSENGER. Yes, sir.

The CHAIRMAN. Was there any trouble up there, were you having trouble among the Indians of the tribe so that there was dissatisfaction among them due to the management of the chief and the council as it existed then?

Mr. MESSENGER. No. We never had any trouble. The cause of all of our trouble was Mr. Armstrong's interference.

The CHAIRMAN. When this meeting was called and when the meeting took place, what percentage of the members of the tribe were at the meeting and voted to institute this business commission, in your judgment?

Mr. MESSENGER. More of the people who attended the council were not members; a majority were not.

The CHAIRMAN. Since the business commission has been formed and in operation has there ever been a meeting of the tribe called to protest against that action?

Mr. MESSENGER. Yes, sir. I notified the commissioner by wire and the commissioner answered me by wire, telling me that he would send an inspector to the reservation to inspect our trouble. I also notified the Secretary of the Interior and also notified Daniel B. Henderson.

The CHAIRMAN. That does not answer the question. I asked if there had been a meeting of protest called since the business commission has been formed, protesting against that action?

Mr. MESSENGER. Yes, sir.

The CHAIRMAN. You say "Yes, sir," but you say that you had sent telegrams. You are not the entire tribe, notwithstanding the fact that you are the chief.

Mr. HOLLIDAY. Pardon me, Mr. Chairman, a moment, but when an Indian speaks and says, "me," he means his people through him. They had a council meeting following the election and they got together and instructed him to wire that they protested against the approval of the committee.

The CHAIRMAN. That is the information I wanted.

Mr. HOLLIDAY. That is exactly it.

The CHAIRMAN. Now, there must be some reason why the business commission was put in up there and you must have some idea about that, and I want you to tell us if you can, why you believe it was done, outside of Mr. Armstrong; there must have been some other reason.

Mr. MESSENGER. There was a reason. Armstrong was a leading member of the Wooster committee or enrolling committee. Now, there were the swamp lands and the school section available for allotment, and those on the Wooster roll after having received full allotments, wanted to elect that committee so that all of those on the Wooster roll would get some of that remaining land or unallotted land, composed of the school section and swamp land. They wanted that placed to their credit. That was the controlling factor there in getting that committee into operation.

The CHAIRMAN. Can you tell us why the executive power was taken away from the chief of the tribe and put into the hands of this business committee? That swamp land matter might not have been the only reason. There must have been some difficulty up there, and some members of the tribe must have been opposed to the management of the tribe's affairs through the powers that existed.

Mr. LA FERNIA. The reason for that is that the chief of the band wanted every member on the reservation to receive equal rights, while the Armstrong committee wanted those on the Wooster roll to receive all the benefits to the exclusion of anybody else who might have a perfect right there. They packed that council by Wooster allottees and carried that election through that method.

Mr. RHODES. Who is this man Armstrong?

Mr. LA FERNIA. He is the disturbing element upon the Bad River Reservation.

Mr. RHODES. Is he a member of the tribe?

Mr. LA FERNIA. Yes, sir; he may be a member of the tribe. He was once removed from the reservation for causing disturbance.

Mr. CARTER. Who removed him?

Mr. LA FERNIA. The Indian agent, Mr. Mercer.

Mr. RHODES. Do those belonging to this band say he is an inter-loper?

Mr. LA FERNIA. He belongs to the band.

Mr. ELSTON. What degree of Indian blood is he?

Mr. LA FERNIA. I should say he is a half-breed.

Mr. CARTER. What degree of blood are you?

Mr. LA FERNIA. I am a half-blood.

Mr. CARTER. Is your mother an Indian?

Mr. LA FERNIA. A Chippewa Indian.

Mr. CARTER. She did not belong to the Lapointe Band?

Mr. LA FERNIA. No, sir.

Mr. CARTER. Was your father an Indian?

Mr. LA FERNIA. No, sir; he was a white man.

Mr. CARTER. Then, you do not claim any rights in the Lapointe Band?

Mr. LA FERNIA. Yes, sir.

Mr. CARTER. On what ground?

Mr. LA FERNIA. Under the second article of the treaty. If you will allow me, I will make a statement.

The CHAIRMAN. Certainly.

STATEMENT OF MR. JAMES LA FERNIA.

The CHAIRMAN. What does the second article of the treaty provide?

Mr. LA FERNIA. Under the treaty of 1854 there were six or seven separate and distinct reservations set apart for the different bands, and the second article of that treaty provides for the Lapointe Band, and it says that they should have particular land which it described by metes and bounds. That land was especially set aside for members of the Lapointe Band and such other members of the Lake Superior bands as desired to settle and live with them. That is in effect the language. Now, the Lapointe Band is made up largely of Indians other than the original Lapointe Band Indians. They have come from all of the Lake Superior reservations, and the roll you will find is a conglomerate roll, so far as that is concerned. Perhaps if you take some of these chiefs, you will find that they were members of some other bands, but they lived in that part of the country. As Mr. Holliday stated, under the treaty of 1854 these Lake Superior Indians were all one tribe or band, and the second article provides specifically for cases like that.

I have made my home on the Bad River Reservation for 32 years, and I have raised a family of seven children. My oldest son is married and also my daughter, and I have some grandchildren. To-day I am here with this committee to try to see a fair judgment rendered in the interest of my children and also in the interest of the band. I do not believe there is justice in having such a committee composed of Mr. Armstrong, a man that you can not lay any confidence in.

Mr. CARTER. Is he a member of your tribe?

Mr. LA FERNIA. Yes, sir. You can not rely upon such a committee. I do not believe that there is justice for any allottee that is allotted on the Wooster roll having an additional allotment of this school section and the swamp lands. If Mr. Armstrong gets the power to make the additional allotment of those school and swamp lands, it will not be justly done. It will not be justice to not let the Indians that are interested in that know what course he is to take or what powers he is trying to take. I believe the band ought to be notified and it ought to be presented so that the old people can understand it in Chippewa language, as I will try to explain it in English. It would be interesting to every member of that band if he had a piece of property, and for the welfare of your children you would not

want a man to go to work, or a committee to go to work, to look after it without being under a bond to the extent of one cent. Furthermore, the resolution has not provided for any salary whatever, but he can hire one lawyer or a hundred lawyers. I do not believe it is justice to the members of the band on that reservation.

Mr. CARTER. What band of the Chippewas did you belong to originally?

Mr. LA FERNIA. To the L'Anse Band in Michigan.

Mr. CARTER. Were you enrolled with them?

Mr. LA FERNIA. No, sir.

Mr. CARTER. Did you ever live on their reservation?

Mr. LA FERNIA. No, sir.

Mr. CARTER. You have always lived on the Lapointe Reservation?

Mr. LA FERNIA. No, sir; my father had a homestead outside of the reservation. I was born and raised on the reservation, but I was not enrolled on that reservation when I was a child. There used to be a payment made to the L'Anse Band. There are now two missions. There is a Baptist mission and there is a Methodist mission. The L'Anse Bay runs in there and divides them in two parts. Every year there will be an agent sent down there to find out how many Indians would draw annuities next spring. Our names were taken down there, but when we came to collect our rights, they were not issued to us. I do not know to whom it was paid. I have been on the Lapointe Reservation for 32 years. The only thing I drew there on the Bad River Reservation was \$5.70. That is all I ever got from the Government. I am really not claiming an allotment, but I am only trying to help these poor people.

The CHAIRMAN. How many members are there of this band?

Mr. LA FERNIA. Of original members, I do not know. I can not state exactly, but counting children and all, there would be in the neighborhood of between 1,200 and 1,500.

The CHAIRMAN. Is this a representative body of men here, or is it fairly representative of the membership of the tribe?

Mr. LA FERNIA. Yes, sir.

The CHAIRMAN. Are they mostly business men, or do they all have their own farms and business? I am referring to these men who are here.

Mr. LA FERNIA. Most of them are.

The CHAIRMAN. What is the nature of the business that they follow?

Mr. LA FERNIA. Most of it is farming.

The CHAIRMAN. Do they farm themselves, or do they employ other men to operate their business for them?

Mr. LA FERNIA. They farm themselves.

The CHAIRMAN. They look like a fairly prosperous lot of men, and I think they ought to be able to manage their own affairs.

Mr. LA FERNIA. Yes, sir.

The CHAIRMAN. The contention here, as I understand it, seems to be in two sections. One relates to the enrollment and the other to the business management of the tribe. Is that correct?

Mr. LA FERNIA. Yes, sir.

The CHAIRMAN. And the two are correlated to this extent: The business committee, in your judgment and in the judgment of the tribe, is the predominant power in making the roll, as the roll is

being made to-day, or if it was to be made now, and your idea is that the influence of the business committee would prevail as to whom should be put upon the roll. Is that correct?

Mr. LA FERNIA. Yes, sir.

The CHAIRMAN. That is the condition that you want corrected?

Mr. LA FERNIA. Yes, sir.

The CHAIRMAN. I would like to ask the attorney here if that is his understanding of it.

Mr. HENDERSON. That is largely it.

The CHAIRMAN. That brings it down to practically one equation.

Mr. HENDERSON. Except this: The proposition as this delegation presents it now is not that they should be allowed to go on the roll, but that they should be given some forum for the determination of the question, and where both sides would have a fair opportunity.

The CHAIRMAN. They do not feel that they would get justice from the commission that now exists?

Mr. HENDERSON. That is the burden of their complaint.

The CHAIRMAN. Do I understand that this hearing has been satisfactory to those present, or are there others who desire to be heard? Is there anything more that you think you should say?

Mr. HENDERSON. I think there is much that could be said or that would be enlightening to the committee, and I know that some of these older men would like to be heard. They have come a long distance, and would like to make statements. They appreciate the importance of having a time limit set upon it, but they have come here at great expense and they would like to be heard if it is the pleasure of the committee. Of course, they appreciate the fact that your time is limited, and if they can not be heard, they will understand fully the reasons.

The CHAIRMAN. Perhaps some members of the committee would be willing to sit further, but, of course, the House is now in session.

Mr. RHODES. What information has this committee with regard to the dispute between this man Armstrong and these other Indians?

The CHAIRMAN. We are getting one side of the question, and we are trying to get their conceptions of what the other side is.

Mr. RHODES. The fact that this man makes the charge that this man Armstrong is a mischief-maker raises a question of veracity between his statement and that imputed to this man Armstrong. I would like to ask about three questions before we adjourn. I will ask the counsel of the band, am I right in this understanding, that prior to the time of the convening of this business council, this gentleman here was recognized as the chief, both by the tribe and by the department in Washington?

Mr. HENDERSON. One of these chiefs, so far as my knowledge and information goes, was recognized not only by the tribe but also by the department.

Mr. RHODES. Since the convening of this present council, has he ever been recognized as the chief by the department in Washington?

Mr. HENDERSON. I can not answer that categorically, but it is my opinion that he has never been recognized since that time.

Mr. RHODES. Who has been recognized, if anybody, by the department in Washington as chief?

Mr. HENDERSON. I think no chief has been recognized, but this business committee has probably assumed the functions of chief or headman of the tribal council.

Mr. RHODES. Mention was made of another gentlemen present as having been denominated chief. What relation has he ever occupied with the Government here in Washington? I refer to Mr. White.

Mr. HENDERSON. Mr. White is the son of Moses White, Moses White having been one of the three head chiefs of the tribe in the early days.

Mr. RHODES. Has he ever asserted any of the rights of chief?

Mr. HENDERSON. I think he is recognized by the people. I do not know that he has ever asserted that right to the department. He is present and can answer for himself.

Mr. RHODES. Has he ever been recognized by the department as chief?

Mr. HENDERSON. I do not know whether he has or not.

Mr. RHODES. I infer from what you have said that he has not, because that business council or committee has been performing the functions of the chief.

The CHAIRMAN. You are familiar with the meeting that elected the commission up there, are you not?

Mr. HENDERSON. I have heard a great deal about that.

The CHAIRMAN. What do you say as to the number of members of the tribe represented by that meeting when that commission was elected?

Mr. HENDERSON. I judge from statements that have been made by persons who were at the meeting and from what I have heard otherwise that it was an inadequate representation; that is, that the membership of the tribe was inadequately represented at that meeting to justify the appointment of a body of men, or 10 or 12 men, to supersede the chiefs and head men and the tribal council. As a justification for that, I want to say to the committee that it is reported to me, and most authoritatively, that when the superintendent of the reservation was called upon by many of the men who are here and by other members of the tribe to call another council for the purpose of protesting against the perpetuation of this committee as the business committee, he said to them, "I will not call another council unless you will bring me a petition signed by at least 115 men." They brought him a petition signed by 115 men. That has been a good while ago, but there has been no council called yet. So that upon that basis I should say, from what they told me, that the tribal council, if it was a tribal council strictly speaking, at which this business committee was appointed or elected, was an inadequate representation of the tribe.

Mr. CARTER. I notice that the bill as presented is just a type-written copy.

Mr. HENDERSON. Yes, sir.

Mr. CARTER. Has the bill been introduced?

Mr. HENDERSON. It has not been introduced.

Mr. CARTER. Really, there is nothing before the committee officially or formally?

Mr. HENDERSON. Not in a strict sense. We were going to ask Mr. Nelson to introduce it at his earliest convenience.

Mr. CARTER. I suggest that the bill be introduced. These gentlemen having come a long way I presume they want serious consideration of this matter. Of course, our hearing this morning has been strictly ex parte, and I do not think that the committee would want to decide an important matter of this kind on any ex parte hearing.

I would suggest that some officials representing the department be called at the next hearing in order that we may get down to the real facts of this contention.

Mr. HENDERSON. This delegation expected to find the three members of the business committee here this morning and they felt sure the department would see that they were here. They particularly desire that the members of the committee be here, and if you have another hearing they feel that the department ought to be represented by the commissioner himself, if possible.

Mr. CARTER. I would offer this further suggestion, that after the bill has been introduced the chairman notify the department about the bill and have some of the officials attend the next hearing.

The CHAIRMAN. How long are these people going to stay here?

Mr. HENDERSON. They are anxious to go home, but they will stay until after the bill has been introduced and some action is taken, if necessary.

The CHAIRMAN. The bill can be introduced to-day?

Mr. HENDERSON. Yes, sir.

The CHAIRMAN. Suppose we meet again Monday morning?

Mr. HENDERSON. I do not want to plead my personal convenience, but I have a case in which the Government has given me notice to be present in New York to take testimony on next Monday and Tuesday. There is a time limit fixed by the Court of Claims. While I do not think that my presence is necessary, and I think that these people can take care of themselves, but Mr. Nelson could probably spare the time to be here. I just wanted it noted that I could not appear.

(Thereupon the committee adjourned.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, July 1, 1919.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. We are here pursuant to the arrangement made a few days ago to continue the hearing of the La Pointe Chippewa Indians with reference to certain matters. This bill, H. R. 6,807, has recently been presented as of June 27, 1919, and the chairman has had no time as yet to get a report on this measure. It was supposed that the other side of the question would be heard this morning, and I would like to know now whether Mr. Armstrong or anybody representing him is present.

Mr. HOLLIDAY. We understand that they left the city last evening.

The CHAIRMAN. Is there anything further that this delegation here wishes the committee to hear with reference to their side of the question that was not covered in the hearing a few days ago?

Mr. HENDERSON. Mr. Chairman, perhaps there ought to be added to what has been said by Mr. Holliday the statement that while I was at the committee room yesterday morning, I met Mr. Armstrong, Mr. Condecon, and Mr. Denomie, who constitute the representatives of this business committee. They were here, but the committee did not meet yesterday, and I told them of the postponement and asked them to be here this morning with the other delegation of the

Indians. I told them that I knew the committee was anxious to have them here, but they said they did not know whether they could be present or not. They expected to leave the city last night. That is the situation with reference to them, so that they had full notice of the postponement of the hearing.

Mr. RHODES. I would like to question Mr. George Messenger, the head chief, through the interpreter, on one or two points.

Mr. HENDERSON. May I say that by an arrangement with the delegation, and with the committee's consent, the interpretation of the English to the witness will be by Mr. La Femia, and the interpretation of the Chippewa to the committee will be by Mr. Holliday. That is because these gentlemen possess rather different qualifications, and it is easier to do it that way.

STATEMENT OF MR. GEORGE MESSENGER, OF THE LA POINTE BAND OF CHIPPEWA INDIANS, THROUGH MR. JAMES LA FERNIA AND MR. H. E. HOLLIDAY, INTERPRETERS.

Mr. RHODES. Your name is George Messenger?

Mr. MESSENGER. Yes, sir.

Mr. RHODES. When was this business committee meeting held that took authority away from you and the other chiefs, and that was testified about day before yesterday? How many years ago was it?

Mr. MESSENGER. I am not positive of the date, but it was in July of last year.

Mr. LA FERNIA. It was on the 15th day of July that the council was held last year.

Mr. RHODES. Before that time had the tribal authority been exercised through you, as the head chief, and your associate chiefs?

Mr. MESSENGER. Yes, sir.

Mr. RHODES. During all those years that the tribal authority was exercised through you and the other associate chiefs, was such authority recognized by the Government here in Washington?

Mr. MESSENGER. Yes, sir.

Mr. RHODES. Since the formation of this business committee, who has exercised the tribal authority?

Mr. MESSENGER. I suppose it was that committee, or the business committee.

Mr. RHODES. Name them, please.

Mr. MESSENGER. Charles D. Armstrong, and I am not sure of the other names.

Mr. RHODES. How many other men were there acting with Mr. Armstrong?

Mr. MESSENGER. I understand there were 11.

Mr. RHODES. Has the department here in Washington recognized this business committee since it was formed in preference to the chiefs?

Mr. MESSENGER. I do not know whether they are recognized by the Indian Commissioner.

Mr. HOLLIDAY (to Mr. La Femia). Ask him does he know that in council the superintendent and Inspector Knight had asked that that committee be appointed, saying that there were no more chiefs?

Mr. MESSENGER. I do not understand. When at that council which was held and in which Inspector Knight and the agent were present, I would not recognize it as a properly called council.

Mr. RHODES. Did you claim to be the head chief at the time this committee was formed?

Mr. MESSENGER. Yes, sir; I was one of the chiefs.

Mr. RHODES. How many chiefs were there of your tribe?

Mr. MESSENGER. I know of one. Two of the old chiefs are living now, James Blackbird and myself. The heirs to those chiefs are James White and James Scott and Thomas Cloud.

Mr. HERNANDEZ. From time to time did they hold semiannual or annual meetings of the whole tribe, or at least of a majority of the tribe, in order to pass upon your actions and also those of the other chiefs? Did they consult among themselves and did they hold councils every once in a while?

Mr. MESSENGER. Yes, sir.

Mr. HERNANDEZ. How often did you call those meetings—every six months, or how often?

Mr. MESSENGER. There was no definite number of times for those meetings. Whenever there was any business to be transacted the chiefs sometimes met once a month and sometimes more than once a month to transact that business in council.

Mr. HERNANDEZ. Did those chiefs as the representatives of the tribe take their grievances and complaints to the superintendent once in a while? In other words, did they attend to the business?

Mr. MESSENGER. Yes, sir; in some cases we called on the agent.

Mr. HERNANDEZ. Did the majority of the tribe recognize you and the other chiefs as the head men of that tribe?

Mr. MESSENGER. Yes, sir.

The CHAIRMAN. We would like to hear for a few moments one of the other chiefs that comes from the same town of the same township that George Messenger comes from.

Mr. RHODES. Who is the oldest chief present?

Mr. HOLLIDAY. Thomas Cloud.

STATEMENT OF MR. THOMAS CLOUD, OF THE LAPOINTE BAND OF CHIPPEWA INDIANS, THROUGH MR. JAMES LA FERNIA AND MR. H. E. HOLLIDAY, INTERPRETERS.

The CHAIRMAN. Where do you live?

Mr. CLOUD. On the Bad River Reservation.

The CHAIRMAN. How many people of this tribe do you claim to represent?

Mr. CLOUD. The people that I represent are the Bad River Band.

The CHAIRMAN. How many people do you claim to represent, or what number or portion of the tribe?

Mr. CLOUD. I represent the majority of the members of the Lapointe Band.

The CHAIRMAN. Previous to the business council having been organized did you call your portion of the tribe together to hold meetings at various times?

Mr. CLOUD. Yes, sir.

Mr. RHODES. Chief, when was this business committee first formed?

Mr. CLOUD. I can not tell.

Mr. RHODES. About how many years ago was it?

Mr. HOLLIDAY. The old gentleman does not seem to understand. You have reference to the business committee, have you not?

Mr. RHODES. I want to hear from him or from some one else. If he can not testify, we will try somebody else. If he does not care to testify, he can step aside.

The CHAIRMAN. We will excuse this witness.

I will call on this young soldier to testify.

Mr. HOLLIDAY. He is a descendant of one of the old chiefs and belongs to this tribe.

**STATEMENT OF MR. JAMES WHITE, JR., OF THE LAPOINTE
BAND OF CHIPPEWA INDIANS.**

The CHAIRMAN. Mr. White, are you still in the service?

Mr. WHITE. No, sir.

The CHAIRMAN. How long did you serve in the Army?

Mr. WHITE. Eleven months.

The CHAIRMAN. Did you serve in this country all the time, or in France?

Mr. WHITE. Yes, sir; in this country all the time.

The CHAIRMAN. You were in this country all the time?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Are you a member of this tribe?

Mr. WHITE. Yes, sir.

The CHAIRMAN. You live on the reservation?

Mr. WHITE. Yes, sir.

The CHAIRMAN. And you are familiar with the situation as it has been presented here?

Mr. WHITE. While I was on the reservation, before I left for the service.

The CHAIRMAN. Do you live on the reservation now?

Mr. WHITE. Yes, sir; I live on the reservation now.

The CHAIRMAN. Were you there at the time this business committee was formed?

Mr. WHITE. No, sir.

The CHAIRMAN. When was that business committee formed, according to your recollection, or about what time of the year?

Mr. WHITE. Do you mean when was the business committee elected?

The CHAIRMAN. Yes.

Mr. WHITE. Sometime in July of last year.

The CHAIRMAN. Had you left before that for the Army?

Mr. WHITE. Yes, sir.

The CHAIRMAN. How long before that?

Mr. WHITE. It must have been about six months before that.

The CHAIRMAN. When you left, or about the time you left, were there any complaints being entered by the members of the tribe as to whether or not their business was being properly handled by those who were in authority then?

Mr. WHITE. Before I left?

The CHAIRMAN. At the time you left, or six months before the business committee was formed or elected, did you know or did you hear that there were any complaints being made by members of the tribe about the way their business was being handled?

Mr. WHITE. No, sir.

The CHAIRMAN. You heard no complaints with regard to the way their business was being conducted by those men in authority?

Mr. WHITE. No, sir.

The CHAIRMAN. Your statement is that you did not know that there were any complaints being made?

Mr. WHITE. Since I came back?

The CHAIRMAN. No; before you went away.

Mr. WHITE. No, sir; I did not know of any.

The CHAIRMAN. Everything seemed to be going along all right, and the people up there, or the tribe, were satisfied with conditions as they existed?

Mr. WHITE. I will tell you the whole situation there. I have not been on the reservation very much, as my wife lives off the reservation at Oneida, but I was there or visited them before I left. I went back and joined the Army afterwards. I do not know what the situation was, but I think that the chiefs and headmen of this tribe were uneasy about this other party that has been elected since.

The CHAIRMAN. They were uneasy?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Why were they uneasy?

Mr. WHITE. Because their authority had been taken away from them.

The CHAIRMAN. At that time, of course, it had not been. Before you went away their authority had not been taken away from them.

Mr. WHITE. There were some there that did not recognize the chiefs at the time anyway.

The CHAIRMAN. But when you were there, six months before you went away, you knew then that the chiefs were disturbed because they expected their authority was going to be taken away from them?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Then, there was some disturbance there at the time you went away?

Mr. WHITE. Yes, sir.

The CHAIRMAN. You stated that you were not there when the election was held at which the council or business committee was elected.

Mr. WHITE. I was not there.

The CHAIRMAN. You do not know how many people attended that meeting?

Mr. WHITE. No, sir.

The CHAIRMAN. And you do not know whether the people generally approved it, or not?

Mr. WHITE. No, sir.

The CHAIRMAN. You do not know that they disapproved it?

Mr. WHITE. No, sir.

The CHAIRMAN. You do not know whether they approved it, or not, because you were not there?

Mr. WHITE. I was not there at all.

The CHAIRMAN. You know now that they disapproved it?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Tell us in your own way why they disapproved it, or why they do not like it?

Mr. WHITE. Starting from the time of the making of the roll of the children, I understand from the old men here who have been teaching us that whenever there was a roll to be made the chiefs and headmen made a roll and presented it to the people. Up to this Wooster roll, and that is where the dissatisfaction occurred—

The CHAIRMAN (interposing). That is one of the things that caused dissatisfaction?

Mr. WHITE. That is the main thing, and I can answer as to that.

The CHAIRMAN. That is the main thing that caused trouble.

Mr. WHITE. Yes, sir. I do not know where the authority came from for making this Wooster roll.

The CHAIRMAN. Then, you do not know that there has been bad feeling up there on account of the way the business committee has managed the business affairs of the tribe? You do not know that there is any dissatisfaction on account of the way the business committee has managed the affairs of the tribe?

Mr. WHITE. No, sir.

The CHAIRMAN. Do you think that the tribe is satisfied with the way the business committee has handled their affairs, outside of the roll?

Mr. WHITE. I leave that to these other boys. There is a man over there who can answer those things.

The CHAIRMAN. You do not know yourself?

Mr. WHITE. No, sir.

Mr. RHODES. You say that this business committee was formed about a year ago?

Mr. WHITE. Yes, sir.

Mr. RHODES. And since you entered the service?

Mr. WHITE. Yes, sir.

Mr. RHODES. You did not mean to tell the chairman that this was the first business committee ever formed for the purpose of exercising authority over this tribe of Indians, did you?

Mr. WHITE. This was the first business committee.

Mr. RHODES. This was the first business committee?

Mr. WHITE. This is the first. It is all that I know anything about.

Mr. HERNANDEZ. Do you know who got up the idea of this business committee? Do you know who suggested or who started the propaganda among certain members of the tribe to select a business committee?

Mr. WHITE. I can not say as to that.

Mr. HERNANDEZ. You do not know how it started?

Mr. WHITE. No, sir.

Mr. HERNANDEZ. Did it not start through the agent up there? Did not the superintendent of the reservation start the idea?

Mr. WHITE. I can not say as to that.

STATEMENT OF MR. JAMES SCOTT, MEMBER OF THE LA- POINTE BAND OF CHIPPEWA INDIANS.

The CHAIRMAN. Tell us who you are and what position you hold with the tribe.

Mr. SCOTT. My father was a chief of the tribe and a full member of the tribe, from ancestors back to ancestors, and he was very fond of his people. He was a man who was honest with his people all the time, and common justice was his main quality.

The CHAIRMAN. Do you live there on the reservation?

Mr. SCOTT. I was born on the reservation and raised there.

The CHAIRMAN. Do you live there now?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. What do you do, or what is your business?

Mr. SCOTT. I have operated as a business a kind of billiard hall and have real estate property, dwelling houses, etc.

The CHAIRMAN. You know everybody in and around the place?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. And practically everybody on the reservation?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. You were there at the time this business committee was formed?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. What do you say, from your own knowledge, was the reason why the authority was taken away from the chiefs and put into the hands of the business committee?

Mr. SCOTT. I can not say. This was performed secretly.

The CHAIRMAN. Do you mean to say that the people were not advised when this business committee was to be formed?

Mr. SCOTT. It was known by the chiefs and headmen that there was a notice posted up.

The CHAIRMAN. How many days before the meeting?

Mr. SCOTT. About 10 days, I think.

The CHAIRMAN. Were the notices posted up on the streets?

Mr. SCOTT. Yes, sir; on the streets.

The CHAIRMAN. So that the people that were advised were advised by the notices posted up on the streets?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. There was no messenger sent out or letters written, so far as you know, to the tribe, calling all of them together?

Mr. SCOTT. No, sir.

The CHAIRMAN. Was the notice printed in a newspaper?

Mr. SCOTT. No, sir; it was typewritten.

The CHAIRMAN. How many of those notices did you see yourself?

Mr. SCOTT. I can not say, but about five or ten.

The CHAIRMAN. How far away from your place of business do you think you went at any one time during the 10 days that these notices were posted?

Mr. SCOTT. I can not say. I went to several places, but they were not there.

The CHAIRMAN. Did you go 5 miles away?

Mr. SCOTT. There was the city of Ashland, and I had a little business up there occasionally.

The CHAIRMAN. Is that city on the reservation?

Mr. SCOTT. No, sir; it is outside of the reservation.

The CHAIRMAN. How many notices did you see on your way from your place of business to this city?

Mr. SCOTT. I did not see any.

The CHAIRMAN. Is it your judgment that there was, or was not, a sufficient number of notices put up so that the tribe could have been advised that that meeting was to be held?

Mr. WHITE. For that matter, there were, but how was it that my people did not know anything about it?

The CHAIRMAN. I am not asking that. I am asking you whether notice was given. Did you attend the meeting?

Mr. SCOTT. I certainly did.

The CHAIRMAN. Then you must know how many people of the tribe were present.

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Were you at the meeting that elected the business committee?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Did you vote for that commission?

Mr. SCOTT. I voted for one after the Armstrong resolution passed. That was carried, and then we were defeated.

The CHAIRMAN. Do you know how many votes were cast for and against that resolution?

Mr. SCOTT. I think it was about seven.

The CHAIRMAN. Seven votes?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Do you mean that there were only seven people who cast ballots?

Mr. SCOTT. No, sir, there must have been pretty close to 100.

The CHAIRMAN. Your judgment is that there were 100 men there?

Mr. SCOTT. And women.

The CHAIRMAN. Both the men and women voted?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Good for them. Now, how many men and women belonging to the tribe and who had a right to vote were present?

Mr. SCOTT. I do not think there were 10 per cent.

The CHAIRMAN. I am asking how many men and women of the tribe who had any right to vote were there.

Mr. SCOTT. I do not think there were over 5 or 10, or maybe there were 20.

The CHAIRMAN. I do not think you understand what I mean. How many adult members of the tribe are there, or how many grown people belong to the tribe?

Mr. SCOTT. On the reservation?

The CHAIRMAN. Yes, on the reservation.

Mr. SCOTT. I can not say whether there are 700, or 800, or 1,200. I can not say.

The CHAIRMAN. Say there are seven or eight hundred, and, of course, the record will show how many there are: You say there were about 100 at the meeting?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Do you remember by what majority of that 100 men and women the commission was elected?

Mr. SCOTT. A little better than 40.

The CHAIRMAN. The majority for it was a little better than 40?

Mr. SCOTT. We were defeated by seven votes.

The CHAIRMAN. By what?

Mr. SCOTT. By seven votes.

The CHAIRMAN. Then, that was the majority, or the majority that the committee got was seven votes?

Mr. SCOTT. Yes, sir; that is right.

The CHAIRMAN. So you were pretty evenly divided in the meeting?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. What do you say would have been the result if there had been a fair representation of the seven or eight hundred people that you claim had the right to vote? If the people had been notified, according to your notion, would the result have been different?

Mr. SCOTT. It certainly would.

The CHAIRMAN. In your judgment the result would have been different?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Since this commission has been operating up there have the conditions with regard to the way in which the tribal affairs have been handled been better or worse?

Mr. SCOTT. Since the business committee was elected?

The CHAIRMAN. Yes.

Mr. SCOTT. It is worse.

The CHAIRMAN. Is there a general disposition on the part of the tribe to confer with this business committee in handling the affairs of the tribe?

Mr. SCOTT. They handled their affairs secretly.

The CHAIRMAN. I know, but is the tribe disposed to be dissatisfied?

Mr. SCOTT. Certainly, they are.

The CHAIRMAN. And they want that situation changed?

Mr. SCOTT. Certainly.

The CHAIRMAN. Why don't they call another meeting and elect another commission?

Mr. SCOTT. There has been a meeting, but their meeting was not recognized by Inspector Knight.

The CHAIRMAN. So that according to your testimony, there is not any way now that the tribe could call a meeting and elect another commission. I will put it in this way: How long is this commission elected for? How long does their term of office last?

Mr. SCOTT. I couldn't just remember that clause in the resolution now.

The CHAIRMAN. But they are elected for a specified period of so many years?

Mr. SCOTT. Yes, they are. This committee of 11; it is supposed that if they did not do their work just right they would be discontinued in some way. There was a clause in that resolution of that kind, anyway.

The CHAIRMAN. Then, since this commission was elected, you have attempted to elect another commission in their place.

Mr. SCOTT. No; just discontinue this committee and take the old method according to the stipulations of the treaty.

The CHAIRMAN. In other words, you want to go back to the same executive authority you had before the commission was appointed?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. That is what you think the tribe want to do?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. How do you understand that can be done?

Mr. SCOTT. That is the reason, I think, we are seeking this legislation.

The CHAIRMAN. According to your knowledge, there is not any other way you can do it. Under the tribal arrangements that exist

now, there is no way that you could go back to the form of management of your affairs that you had before the commission was appointed. There is no way that you can get back to it.

Mr. SCOTT. No.

Mr. HERNANDEZ. Then, in the opinion of the majority of your tribe, the right of the majority to rule was taken away from you?

Mr. SCOTT. Yes, sir.

Mr. HERNANDEZ. Absolutely?

Mr. SCOTT. Absolutely.

Mr. HERNANDEZ. By a minority?

Mr. SCOTT. Yes.

Mr. HERNANDEZ. Who conceived the idea of forming this business committee? How did it originate or how did it get started?

Mr. SCOTT. The first I heard of it was that Mr. Armstrong was the one who was going to raise this council up to introduce his resolution. That is how I understood it.

Mr. HERNANDEZ. Who is this man Armstrong?

Mr. SCOTT. Right here, sir [indicating], C. D. Armstrong.

Mr. HERNANDEZ. Is he in this business committee?

Mr. SCOTT. Yes, sir; he is the head of the committee.

Mr. HERNANDEZ. He is the chief or the chairman?

Mr. SCOTT. He is the chief; yes, sir.

Mr. HERNANDEZ. Undoubtedly, there was some reason to organize this business committee. What do you think was the reason for it? Were not these chiefs attending to the business of the tribe properly?

Mr. SCOTT. Certainly they were.

Mr. HERNANDEZ. Did they hold meetings with the people to find out what they wanted and what their grievances were and what should be done in regard to the land and so on?

Mr. SCOTT. Certainly.

Mr. HERNANDEZ. They were holding these councils right along all the time?

Mr. SCOTT. Certainly.

Mr. HERNANDEZ. Now the main grievance seems to be as to the roll?

Mr. SCOTT. Yes.

Mr. HERNANDEZ. There are some people in your opinion and in the opinion of these other people who have been placed on the roll of the tribe that should not be there; is that the idea?

Mr. SCOTT. Yes, sir; that is the understanding.

Mr. HERNANDEZ. And there are some people left out?

Mr. SCOTT. That should be there; yes, sir.

Mr. HERNANDEZ. That is the main contention?

Mr. SCOTT. Yes, sir.

Mr. HERNANDEZ. Does not this business committee listen to these complaints and grievances?

Mr. SCOTT. How could they listen when they transact their business secretly?

Mr. HERNANDEZ. Is there some way by which you can displace this business committee and oust them from office?

Mr. SCOTT. Certainly.

Mr. HERNANDEZ. They are being recognized by the Secretary of the Interior and the superintendent up there?

Mr. SCOTT. They certainly must have.

Mr. HERNANDEZ. They have been?

Mr. SCOTT. I think.

Mr. RHODES. Now, Mr. Scott, you stated a while ago that you saw a certain number of notices posted at different places advising the people of this public meeting.

Mr. SCOTT. Yes, sir.

Mr. RHODES. Who signed those notices?

Mr. SCOTT. That I just couldn't say who it was, just at this time.

Mr. RHODES. Do you know whether or not all the notices were signed by the same person or persons?

Mr. SCOTT. I couldn't say.

Mr. RHODES. Do you know whether these notices were signed by one person or by more than one person?

Mr. SCOTT. I couldn't say.

Mr. RHODES. Do you know whether the notices were signed at all or not?

Mr. SCOTT. That's another thing I couldn't say. I just took a glance at it and I know that was injustice.

Mr. RHODES. Did you read the notice?

Mr. SCOTT. Yes, sir.

Mr. RHODES. What did it say?

Mr. SCOTT. I just couldn't say. The notice was given for a general council in 10 days; that is all I can remember.

Mr. RHODES. Now you say about 100 people took part in this meeting?

Mr. SCOTT. Yes, sir.

Mr. RHODES. How many members of this committee were elected at that time?

Mr. SCOTT. Eleven.

Mr. RHODES. Are all of those members still serving who were elected at that time?

Mr. SCOTT. No; there are some that sent in their resignation to Mr. Armstrong.

Mr. RHODES. Has there been an election since that time?

Mr. SCOTT. I do not think so.

Mr. RHODES. By what authority does Mr. Armstrong assume to exercise the power of accepting resignations and filling vacancies?

Mr. SCOTT. Secretly, I told you. I don't know anything about it.

Mr. RHODES. Do you know that he has accepted resignations?

Mr. SCOTT. I couldn't say.

Mr. RHODES. Has anybody else been elected to fill the vacancy caused by the resignation of any of those persons who were originally elected?

Mr. SCOTT. When the business committee was elected as 11, Mr. Armstrong made a motion, or had the suggestion up that there would be another one substituted to the committee which would make 12.

Mr. RHODES. What I am trying to get at is what changes, if any, have been brought about since that time, and how many men are members of this committee to-day?

Mr. SCOTT. I couldn't say.

Mr. RHODES. The same number as were elected first?

Mr. SCOTT. I couldn't say; I don't know anything about it.

Mr. RHODES. Then you tell the committee that the business of this business committee or commission is conducted entirely in secrecy?

Mr. SCOTT. Yes, sir.

Mr. RHODES. And that the people are not advised of what is going on?

Mr. SCOTT. Yes, sir.

Mr. RHODES. Is that what you mean to say?

Mr. SCOTT. Yes, sir.

Mr. RHODES. You say this first meeting was held about a year ago?

Mr. SCOTT. Yes, sir.

Mr. RHODES. Had there ever been a public meeting held prior to this meeting at which a committee was elected for the purpose of controlling the affairs of the tribe, or was this the first business committee ever elected?

Mr. SCOTT. Outside of this first time?

Mr. RHODES. I say, was this the first business men's committee ever elected for the purpose of conducting the tribal affairs? Do you understand my question?

Mr. SCOTT. Not exactly; no.

Mr. RHODES. You say this was not the first meeting, and this was not the first committee?

Mr. SCOTT. There was a committee of five.

Mr. RHODES. Before this one?

Mr. SCOTT. Yes, sir.

Mr. RHODES. When was that committee of five elected?

Mr. SCOTT. In 1914, the 1st of August.

Mr. RHODES. How did that committee come into existence?

Mr. SCOTT. He [indicating Mr. Armstrong] was the first man again to put that up to us.

Mr. RHODES. Now, do you mean to tell the chairman and the members of this committee that Mr. Armstrong was elected a member of the committee in 1914?

Mr. SCOTT. Yes, sir.

Mr. RHODES. With four other associates?

Mr. SCOTT. Yes, sir.

Mr. RHODES. How were they elected, then?

Mr. SCOTT. There were people from all over the country, you couldn't tell whether they were Frenchmen, Swedes, or what, that voted in that council and voted for him.

Mr. RHODES. Were they elected under a notice like the notices posted a year ago? How did the people know this meeting was going to be held at which Mr. Armstrong was elected in 1914?

Mr. SCOTT. I think there were notices. I could not say for sure, there, again.

Mr. RHODES. How old are you?

Mr. SCOTT. I was 30 last month.

Mr. RHODES. Have you lived all your life on the reservation?

Mr. SCOTT. Yes, sir.

Mr. RHODES. Do you know about how many people attended that meeting in 1914?

Mr. SCOTT. There must have been 1,500 or 2,000 off the reservation that never saw the reservation before.

Mr. RHODES. About how many people attended that meeting and who took part in the election of Mr. Armstrong and his associates, who were entitled to vote at such a meeting?

Mr. SCOTT. At that 1914 meeting?

Mr. RHODES. Yes.

Mr. SCOTT. None of them was allotted, or had any land; that is, had any voice in the reservation.

Mr. RHODES. Did anybody vote in that meeting who had a right to vote? Did any of the enrolled Indians vote in that 1914 meeting which elected Mr. Armstrong?

Mr. SCOTT. There was some women, and there was a stairway going up—

Mr. RHODES. I do not care how they got there. I want to know how many enrolled Indians took part in the election of Mr. Armstrong and his associates in 1914.

Mr. SCOTT. That I couldn't say.

Mr. RHODES. Have you any opinion or information on the subject?

Mr. SCOTT. No, sir.

Mr. RHODES. Is there anybody here who has?

Mr. HOLLIDAY. I have.

Mr. RHODES. Now, after Mr. Armstrong and his associates were elected, what, if anything, did they undertake to do with regard to exercising authority over the tribe?

Mr. SCOTT. Are you talking to me?

Mr. RHODES. Yes. I say, what did Mr. Armstrong and his associates do with regard to controlling the tribe after they were elected in 1914?

Mr. SCOTT. They did everything secretly, as I say.

Mr. RHODES. Then you mean to say they exercised the same authority and the same kind of authority that they have been exercising since the meeting last year?

Mr. SCOTT. Yes, sir; the very same thing.

Mr. RHODES. Had there ever been any other business meeting held before the meeting in 1913 or 1914, for the purpose of electing any other business committee?

Mr. SCOTT. At that time I was not home exactly; that is, I was off to school.

Mr. RHODES. Then so far as you know the first meeting occurred in 1914?

Mr. SCOTT. Yes, sir.

Mr. RHODES. Have you ever heard of any other meeting being held before that time?

Mr. SCOTT. I couldn't say certainly. I couldn't swear to it. I heard my father say.

Mr. RHODES. Who exercised tribal authority over these Chippewa Indians between 1914 and the meeting last year, this committee or the head chief and his associates?

Mr. SCOTT. That committee of five. There have been disagreements between the two parties.

Mr. RHODES. We are aware of that. I just wanted to know who exercised the authority.

Mr. SCOTT. The committee of five.

Mr. HERNANDEZ. I understand from your answers to Mr. Rhodes that this committee of five was elected in 1914 by people from outside of the reservation.

Mr. SCOTT. Certainly.

Mr. HERNANDEZ. All classes of people, not Indians alone, but everybody.

Mr. SCOTT. Yes; everybody.

Mr. HERNANDEZ. In other words, Mr. Armstrong, who was the instigator of this plan, "packed" that convention with people from the outside in order to elect members of that business committee?

Mr. SCOTT. Yes, sir.

Mr. HERNANDEZ. And in your opinion, and in the opinion of a majority of the tribe, packed the convention last year again?

Mr. SCOTT. Yes, sir.

Mr. HERNANDEZ. Against the wishes of a majority of the tribe of Lapointe Chippewa Indians?

Mr. SCOTT. Yes, sir.

STATEMENT OF MR. H. E. HOLLIDAY.

The CHAIRMAN. Mr. Holliday, I want to ask you a few questions. What do you know about any business committee having been elected previous to the one Scott has testified to that was elected in 1914?

Mr. HOLLIDAY. There was a business committee elected in the year 1908, I believe.

The CHAIRMAN. Did that include men in the tribe?

Mr. HOLLIDAY. It did.

The CHAIRMAN. Were they all men who belonged to the tribe?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. Were there any of Armstrong's men on that commission?

Mr. HOLLIDAY. Armstrong was a member of that committee, and I believe I was a member of that committee.

The CHAIRMAN. And that goes back to 1908?

Mr. HOLLIDAY. Yes.

The CHAIRMAN. When was the first commission formed that Mr. Armstrong was represented on? According to your recollection, was Mr. Armstrong elected to the first business committee?

Mr. HOLLIDAY. That was the first business committee that I know of.

The CHAIRMAN. You do not know of anything further back than that?

Mr. HOLLIDAY. No, sir. Now I understand by business committee that you are not asking me about the allotting committee.

The CHAIRMAN. I am asking you about a committee that managed the affairs of the Indians up there on the reservation which would include, of course, at least their advice and judgment with regard to allotments and the roll.

Mr. HOLLIDAY. There was an enrolling committee formed in making up the women and children list, which was finished in 1901. I think Mr. Armstrong was a member of that committee. Later on there was another allotment roll being made up or an enrollment made by Maj. Downs. He also was a member of that committee.

The CHAIRMAN. Now, as I understand it, your contention is principally over this Wooster roll. There are names on the roll you think ought not to be there and there are some off of the roll, yours included, that you think ought to be on the roll; is that correct?

Mr. HOLLIDAY. That is not my understanding of it.

The CHAIRMAN. Well, what is your understanding.

Mr. HOLLIDAY. We understand that all the people on that roll now are entitled to enrollment under the stipulations of the treaty, but there are people off the roll who are just as much entitled to be placed on that roll as those who are on the roll.

The CHAIRMAN. Then it is your contention that Mr. Armstrong and this committee are responsible for their not being on that roll?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. That is the milk in the coconut, is it not?

Mr. HOLLIDAY. Yes, sir.

Mr. RHODES. The business committee was elected in 1904, did you say?

Mr. HOLLIDAY. I am not sure about that date, but it was about 1908, between 1907 and 1908 or 1906.

Mr. RHODES. Was that the first business committee ever elected which undertook to dispossess the chief of the tribe of his authority to govern his people?

Mr. HOLLIDAY. Yes; that is the first one I know of.

Mr. RHODES. My questions have not been directed with regard to the formation of any rolls. My questions have for their object the accomplishment of this purpose: I want to know when the chief of that tribe was dispossessed of his authority and when that authority was lodged in this business committee. That is what I am seeking to find out.

Mr. HOLLIDAY. That business committee I spoke of in 1908 or 1907, or about that time, is the first committee I know of that tried to dispose of the chief and head men entirely; that tried to take over his business. An election was held and a business committee formed, but it never was approved of and they never did anything.

Mr. RHODES. Just a moment, please. Prior to the formation of this committee in 1908, did the head chief and his associate chiefs exercise control over their tribe?

Mr. HOLLIDAY. Yes, sir.

Mr. RHODES. Have they ever exercised that authority over their tribe since the election of this committee in 1908?

Mr. HOLLIDAY. Yes, sir.

Mr. RHODES. How long did they continue to do so?

Mr. HOLLIDAY. Up to last July, with the exception of that allotting committee. The allotting committee usurped their power there by act of Congress which allowed them to appoint an enrolling committee.

Mr. RHODES. Do you know whether or not the department in Washington recognized the head chief and his associates prior to last year?

Mr. HOLLIDAY. Yes, sir.

Mr. RHODES. And you understand that since the election of this last committee the department at Washington has ceased to recognize these chiefs and does recognize this committee?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. You heard what the Witness Scott said about a meeting that elected a commission in 1914?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. When there were 1,500 or 2,000 people there, very few of whom had the right to vote. Were you there at that meeting?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. Do you corroborate what Scott says about it?

Mr. HOLLIDAY. Under the act enabling the roll to be made up—the Wooster roll—it provided—

The CHAIRMAN. No; that was not the Wooster roll.

Mr. RHODES. I want to hear your answer to the chairman's question.

The CHAIRMAN. I want to know whether or not you were present at the meeting held in 1914 that the witness testified to, when there were at least 1,500 or 2,000 people at the meeting who did not belong on the reservation, who had no right to vote, and that there were only a few women there who voted who had a right to vote. What do you say about that?

Mr. HOLLIDAY. I was there at that meeting. I don't agree with him in what he says.

The CHAIRMAN. That is what I want to know. I want your version of the meeting.

Mr. HOLLIDAY. I do not agree with him entirely. There were people from British Columbia, as he says, because notices of an enrollment for allotment were made and sent out broadcast over the country and people crowded into the reservation, and that is why there were so many people.

The CHAIRMAN. In addition to electing the committee there that day, what else did they vote upon?

Mr. HOLLIDAY. That was all. They appointed the enrolling committee. That was the enrolling committee which worked under Dr. Wooster.

Mr. HERNANDEZ. That was the enrolling committee and I see now why they came from every direction. I thought perhaps Mr. Armstrong had gone around and notified everybody that they were going to have an election and had packed the convention.

The CHAIRMAN. Now you can state just as concisely as you can what the object of that meeting was. In addition to all the rest you have said, just tell us what that meeting was called for.

Mr. HOLLIDAY. You mean the meeting in 1914?

The CHAIRMAN. Yes; the meeting in 1914.

Mr. HOLLIDAY. That meeting was called to appoint five members of the band to help Dr. Wooster make a tentative roll.

The CHAIRMAN. And there was not anything unusual about all these people being there at all, according to your understanding?

Mr. HOLLIDAY. No, sir. It was very reasonable they would be there.

The CHAIRMAN. Those people who had come there thought they were eligible for enrollment?

Mr. HOLLIDAY. Yes, sir.

Mr. RHODES. What would you say as to the number of people present on that occasion entitled to vote. Were there a large number or a small number of people entitled to vote?

Mr. HOLLIDAY. I would say there were not more than 400 people who were eligible to vote, and that would include those allotted—

Mr. RHODES. That is enough on that point. You say then about 400 people present were eligible to vote. About how many people were present in all?

Mr. HOLLIDAY. I would say there were nearly 2,000.

Mr. RHODES. If there were 2,000 people present and if 400 were eligible, then that would mean there were 1,600 people present who were not eligible. Did those 1,600 people vote for the election of this committee the same as those who were eligible?

Mr. HOLLIDAY. Not all of them.

Mr. RHODES. How many of the 1,600 ineligibles voted, in your opinion?

Mr. HOLLIDAY. I do not know. I think when those ballots were counted, it was very closely divided. There were about 300 on each side.

Mr. RHODES. Do you mean to say that the eligible Indians lined up on one side and those who were not entitled to vote lined up on the other side?

Mr. HOLLIDAY. No, sir.

Mr. RHODES. Then you are not answering my question. I want to know about how many people voted who were not entitled to vote?

Mr. HOLLIDAY. Well, I will answer your question in this way: That if there were 400 people eligible to vote, and there were 600 people voted, there must have been 200 people who were not eligible to vote.

Mr. RHODES. Then you mean to say there were 200 people voted who were not entitled to vote?

Mr. HOLLIDAY. That is my best recollection of it.

Mr. HERNANDEZ. How did they vote? Did they use tickets?

Mr. HOLLIDAY. No, sir.

Mr. HERNANDEZ. Was it just a rising vote, yea and no?

Mr. HOLLIDAY. No; the election was held in what is known as Sisters Hall at Odanah. There is a platform which serves the purpose of a stage with five or six steps making the rise to that stage. When a vote was taken those voting aye were asked to ascend those steps and congregate on the stage.

Mr. HERNANDEZ. And they were counted there?

Mr. HOLLIDAY. And they were counted there, and the same was done under a nay vote.

The CHAIRMAN. To your best recollection, how did that vote come out? What majority did the commission get of that vote?

Mr. HOLLIDAY. Oh, it was very close, one or two votes decided it in some cases.

The CHAIRMAN. And you voted on each member of the commission separately?

Mr. HOLLIDAY. Yes, sir.

The CHAIRMAN. Was that true of the vote on all the men?

Mr. HOLLIDAY. Largely.

The CHAIRMAN. Did Mr. Armstrong get a larger majority or a smaller majority than any of the other men who were voted for?

Mr. HOLLIDAY. If I remember rightly, his majority was slightly larger than the rest of them.

Mr. HERNANDEZ. Then that enrolling committee elected in 1914 was not a business committee.

Mr. HOLLIDAY. No, sir; it was simply an enrolling committee.

The CHAIRMAN. The business committee was elected last year for the first time?

Mr. HOLLIDAY. Yes.

The CHAIRMAN. Now, if we are satisfied with the testimony we have had on that side, we would be glad to hear from Mr. Armstrong, representing the business commission or committee.

STATEMENT OF MR. CHARLES D. ARMSTRONG.

The CHAIRMAN. State your full name to the stenographer and the position you occupy.

Mr. ARMSTRONG. My name is Charles D. Armstrong. I am a member of the Bad River Band of Indians, of the State of Wisconsin, and a member of this business committee.

The CHAIRMAN. Now, Mr. Armstrong, we have been holding a hearing for a couple of days, and we have listened to the complaints of the Lapointe Band, as represented by these gentlemen. We feel you are fully advised on the question and we would like to have you start at least as far back as 1908 and give us, in your own way, what caused the necessity for the appointment of the business committee that is now handling the affairs of these people, and give it to us step by step.

Mr. ARMSTRONG. I think, Mr. Chairman, I would have to go back several years beyond that.

The CHAIRMAN. How far?

Mr. ARMSTRONG. 1894.

The CHAIRMAN. All right; go ahead from 1894.

Mr. ARMSTRONG. I will first state that we have a reservation of about 124,000 acres of land. In about the center of that reservation, on its north, is the village of Odanah. The J. S. Stearns Lumber Co. located, in 1894, at Odanah, and as a carpenter I assisted in constructing that mill and other buildings. They entered into a contract with the several Indians that had allotments, under rules and regulations, which carried a provision that if they removed any timber from unallotted lands that would work a forfeiture of their contract. The Indians were holding councils during this year, 1894, while I was working at this mill, and I was requested several times to attend these councils. I finally went over and attended an evening council. I found the question there was that the J. S. Stearns Lumber Co. had removed timber from unallotted lands and that the timber they were trespassing on was timber that we were putting in as the subsills for this mill. After listening to them a while I perceived that they were not going to get anywhere, and I advised them. "If you expect to meet a white man in his way of handling business you have got to proceed as he does, otherwise he won't recognize you. If he had this question, he would select a committee to go and make an investigation of this alleged trespass; then report to a council and then this council, in turn, would notify you." That suggestion was adopted. I was asked to serve them as a member on that committee, but I declined and others were elected; but I accepted to serve as secretary of the committee. That committee made an investigation, and they found that this timber had been removed from unallotted lands. A council was called, and they made their report. They asked the superintendent to meet them in council for the purpose of presenting him with that report.

The CHAIRMAN. Who is the superintendent there now?

Mr. ARMSTRONG. A man by the name of P. S. Everest. Having received no reply from him, they took the matter to the Indian farmer. The Indian farmer directed his police to go out there; two of them were timber cruisers, and one of them is in the room, Mr. Joe Stoddard. They found that timber had been removed from these lands, and they set about to measure it and give an approximation of the number of feet that had been removed, and they brought that to the farmer. The next I knew about it—after being unable to get any recognition on the part of the Indian agent, we communicated the matter to the Indian Office and asked the Indian Office to respond to us in due time. We named what we thought would be the proper number of days, and receiving no reply from them we presented the matter to the Secretary of the Interior, addressed the matter to the Secretary of the Interior. Having received nothing from him, we addressed the matter then to the chairman of the Indian Committees in both Houses of Congress, and I think the late Vice President Sherman was the chairman of the House committee at that time, and he was the only one, of all those whom we addressed, who responded to us.

The CHAIRMAN. Who was that?

Mr. ARMSTRONG. Mr. Sherman. He acknowledged receipt of the matter and told us that if we had any further communication it would have to go through the regular channels. That was all we knew about the matter until 1896.

The CHAIRMAN. I have not understood you correctly in this matter. Have you been talking about 1894?

Mr. ARMSTRONG. Yes; and from that time on.

The CHAIRMAN. Of course, in 1914 Mr. Sherman was not here.

Mr. ARMSTRONG. No; I am talking about 1894.

The CHAIRMAN. I know that is what you should have been talking about, but your whole statement has been as to 1914.

Mr. ARMSTRONG. Well, I meant to say 1894.

The CHAIRMAN. Then, all of your talk so far has been around the year 1894?

Mr. ARMSTRONG. Yes, sir.

Mr. RHODES. Down to what year?

The CHAIRMAN. He has not gotten beyond 1894 yet.

Mr. RHODES. Yes; I think he has.

Mr. ARMSTRONG. I have just gotten past there now and I am up to 1896. The Indian agent called a council and we all went to that council. With him on the platform was the J. S. Stearns Lumber Co., Mr. Stearns and others. After being there a short time, everything apparently informal, one of his police came in——

The CHAIRMAN (interposing). One of whose police?

Mr. ARMSTRONG. One of the superintendent's police, with a telegram which he opened and read, from the Secretary of the Interior, as I understood it, directing that myself, Antoine Denomie and John Morrison, who were members of this investigating committee, be removed from the reservation. While living in the village of Odanah I was living on railroad property, that is, I was rooming on railroad

property in a section house. Some time afterwards one of the Indian police served me with a notice. I have it here in my pocket:

UNITED STATES INDIAN SERVICE,
Lapointe Agency, Odanah, Wis., February 26, 1896.

MR. CHARLES ARMSTRONG,
Bad River Reservation, Wis.

SIR: You are hereby officially notified not to again come on the Bad River Reservation or suffer the penalties of the law that may follow.

Respectfully,

ROGER PATTERSON,
Additional United States Indian Farmer.

The section foreman in the section house where I was rooming received this instruction:

CHICAGO & NORTH WESTERN RAILWAY CO.,
Ashland, March 1, 1896.

S. D. ESTERBROOK, and WM. SCHUESTER,
Section Foreman, Odanah and Lac Du Flambeau.

If any Indians should be employed on your section as section laborer, or any white men who are in the habit of associating with that tribe, you will please dismiss them from the company's service at once.

I will also state that the section house, in which our section foreman live, is intended for no other purpose than to serve our section foreman, their families, and the men working for the railroad company. These instructions will take effect at once. Please govern yourselves accordingly.

Yours, truly,

A. E. HANSEN, *Road Master.*

The Indian farmer dropped this letter on the road:

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Lapointe Agency, Ashland, Wis., March 2, 1896.

MR. ROGER PATTERSON,
Odanah, Wis.

DEAR SIR: I desire that you should obtain from Antoine Cloud a statement in writing signed by him in the presence of witnesses, confirming the verbal statement to me made in your presence to the effect that the Morrison boys has told him that they had paid A. Denomie \$50 each to obtain an allotment for them. Also that you obtain from the Indians, to whom it was reported to me Charles Armstrong owed \$18 for board, a statement to that effect and any other like documents which may pertain to the present subject, namely, the removal of those parties from the reservation.

I have received from Lake Court Oreilles chiefs and head men a communication addressed to the Commissioner of Indian Affairs, in which they condemn as a mischief maker and approve my action in having him removed, and by that he may never be permitted to return to the tribe. And I expect a similar document from the Lac Du Flambeau chiefs and head men.

In regard to the sale of the house and personal effects of Denomie's, their attention should be called to the fact that the house is upon tribal lands for which they have no shadow of excuse as it has been erected without proper authority.

W. A. MERCER,
Lieutenant, United States Army,
United States Indian Agent.

Up to this time I had never visited the Lac Du Flambeau Reservation or the Lake Court Oreilles Reservation, and I was not known to any of the chiefs on those reservations. At this time the Lac Du Flambeau Reservation, the Lake Court Oreilles Reservation, the Lapointe Reservation, the Red Cliff Reservation, the Fond du Lac Reservation, and the Grand Portage Reservation were under the one agency—the Lapointe Indian Agency—and, I presume, the chiefs more or less subservient on all of these agencies to the Indian agent. The rolls on that reservation were largely—

The CHAIRMAN (interposing). Just a moment. What happened after this paper was served on you?

MR. ARMSTRONG. I remained there.

The CHAIRMAN. By reason of that order, did you leave the reservation?

Mr. ARMSTRONG. I did not leave the reservation; no, sir.

The CHAIRMAN. Tell us, if there is anything further to tell, what other action they took. Did they try further to remove you?

Mr. ARMSTRONG. I met the farmer one day and he asked me if I had received that notice; I told him I had. "Well," he says, "Don't you know you are endangering your liberties by remaining here?" I told him I did not think I was; that I believed I had an inherent right to remain on those premises and that if they cared to remove me they would have to do it by force; and I have been there ever since.

Mr. RHODES. Now, Mr. Armstrong, you say that this took place in 1896?

Mr. ARMSTRONG. 1896.

Mr. RHODES. How old a man are you now?

Mr. ARMSTRONG. I am now 51 years old.

Mr. RHODES. Were you born and raised on the reservation?

Mr. ARMSTRONG. No; I was not.

Mr. RHODES. Where were you raised?

Mr. ARMSTRONG. I was raised in the city of Ashland, about 9 miles from the reservation.

Mr. RHODES. Are you an enrolled member of the Lapointe Band of the Chippewa Indians?

Mr. ARMSTRONG. I am.

Mr. RHODES. By what right do you claim the right of enrollment?

Mr. ARMSTRONG. I presented my case——

Mr. RHODES (interposing). I say, by what right do you claim the right of enrollment?

Mr. ARMSTRONG. Through blood.

Mr. RHODES. Both ancestors or one?

Mr. ARMSTRONG. One.

Mr. RHODES. Which one?

Mr. ARMSTRONG. My mother.

Mr. RHODES. Was your father a white man?

Mr. ARMSTRONG. Yes, sir.

Mr. RHODES. Is your mother living or dead?

Mr. ARMSTRONG. She is dead.

Mr. RHODES. How long has she been dead?

Mr. ARMSTRONG. About 30 years.

Mr. RHODES. Who was it that sought to dispossess you of that property?

Mr. ARMSTRONG. Who was it?

Mr. RHODES. Yes.

Mr. ARMSTRONG. To remove me from the reservation?

Mr. RHODES. Yes.

Mr. ARMSTRONG. Why, it was the Indian agent, the United States Indian agent.

Mr. RHODES. Then the trouble did not arise between you and the Lapointe Band, but it arose between you and the Government?

Mr. ARMSTRONG. Why, the question is this——

Mr. RHODES. How do you answer that question?

Mr. ARMSTRONG. I will answer it. The question is this: They either had to remove myself and Antoine Denomine or the Stearns Lumber Co. That is the whole thing in a nutshell.

Mr. RHODES. Then do I understand that the action of the Stearns Lumber Co. was not approved by the Indian Department in Washington?

Mr. ARMSTRONG. I do not know anything about that.

Mr. RHODES. Why were you and the Stearns Lumber Co. people objectionable to the department?

Mr. ARMSTRONG. I do not think the Stearns Lumber Co. people were at all objectionable to the department.

Mr. RHODES. Well, then, if the objections were not against the Stearns Lumber Co. they were against you individually? In other words, why was the Government seeking to dispossess you of the right to occupy these premises and also to remain on the reservation?

Mr. ARMSTRONG. If the Government had recognized the protests of the Indians and made an investigation and found that timber had been removed from unallotted lands that would have worked a forfeiture of the Stearns Lumber Co.'s contract.

Mr. RHODES. I know, but I say: Why was the Government trying to get rid of you?

Mr. ARMSTRONG. So they would not have to get rid of the company.

Mr. RHODES. What had you done that caused the Government to seek to dispossess you?

Mr. ARMSTRONG. I served on this Indian investigating committee as secretary.

The CHAIRMAN. That is, you represented the tribe and you were one of the men who discovered the fact that the Stearns Lumber Co., or at least their agents, had taken lumber off of unallotted lands?

Mr. ARMSTRONG. I did not make the discovery; no.

The CHAIRMAN. But you were looked upon as being interested in that and you had information about it?

Mr. ARMSTRONG. I had.

The CHAIRMAN. And if that information became public it would be against the interests of the Stearns Lumber Co.?

Mr. ARMSTRONG. It would; yes, sir.

The CHAIRMAN. And they sought, through their agents or the people who were assisting the Stearns Lumber Co., to get rid of you?

Mr. ARMSTRONG. That is the way I view it.

The CHAIRMAN. That is your understanding of it?

Mr. ARMSTRONG. Yes, sir.

Mr. RHODES. Then the trouble that arose between you and the Government was really due to the Stearns Lumber Co. as the chief source of objection?

Mr. ARMSTRONG. I do not know whether there was any real trouble between me and the Government.

Mr. RHODES. Was there any trouble between you and the Stearns Lumber Co.?

Mr. ARMSTRONG. I noticed that the Stearns Lumber Co. had no time immediately after this for me; I could not get any employment from them.

The CHAIRMAN. Now, let us get further down, if we can.

Mr. ARMSTRONG. Now, coming to——

The CHAIRMAN (interposing). Let us come right down to 1914 and see what took place then.

Mr. ARMSTRONG. In 1914 an act passed Congress that was approved on the 1st day of August, 1914; that act provided that the Secretary of the Interior should make a final roll of the Lapointe Band of Indians, with the assistance of a committee to be selected by the Indians.

The CHAIRMAN. Let me ask a question right there. In what capacity were you acting in connection with the tribe in 1914?

Mr. ARMSTRONG. I served as a delegate to Congress to seek that legislation. I will go back now. Prior to 1901 allotments were made on the reservation to conform strictly to the treaty—that is, persons over 21 years of age and heads of families were recognized as eligible for allotments. Those rolls were made by the Indians or the so-called chiefs and headsmen, and they put on people there for allotments, some of whom are probably not under the law entitled to allotments. On February 11, 1901, Congress passed an act which provided that the President might allot to each Indian now living or residing on the reservation and entitled to reside, and they immediately made the roll known as the women and children's roll, and contracts were made by those individuals. There were 352 in said roll, if I remember correctly, and contracts were made for their timber at prices from 65 cents to \$2 and \$4 per thousand feet.

The CHAIRMAN. You are speaking of stumpage?

Mr. ARMSTRONG. On the stump; yes, sir. After those contracts were made, I advised the Indians to protest against the approval of those contracts, and I came to Washington as the representative of the band in protest. We were here something over six months, but we were accorded no recognition at all. Finally the Interior Department advised us that if we could prove that the timber was worth \$8 per thousand, which we were contending was the market value, that he would advertise the entire matter and throw it open to the highest bidder. We went back to the reservation, and I collected lumbermen's reports from different sections of the country. I collected out of them 31 different transactions where the timber had been sold on the stump for from \$8.25 to \$12.75 per thousand, and many of them were right in our near vicinity.

The CHAIRMAN. What year did you say that was?

Mr. ARMSTRONG. That was in 1902. Following my sending in of that report, or on the morning following the evening I sent that report in, I was quarantined by the Government Physician and the assistant farmer for smallpox, although I had no more evidence of it then than I have now. Nevertheless, I got my report in.

The CHAIRMAN. How long were you held in quarantine?

Mr. ARMSTRONG. About two days. That matter was advertised by the Secretary of the Interior for bids. On the night that was advertised we congregated and praised one another on it, and I did not get home until about 12 o'clock. My roommate went home ahead of me and built a fire. We were bachelors, and had a little house by ourselves. On my way home I noticed a storm coming up from the northwest, blowing right in the front of my house. The snow was about 12 or 13 inches deep. I went in the house and went to bed. The next morning my roommate, who was working in the mill, got up first. I noticed he was acting in an unusual way, opening and closing the doors, and finally he called me and asked me if I was asleep. I told him no, and he said, "Please come to the door." I

got up and went to the door and I found a lot of papers, Indians' checks for money, receipts for checks, and correspondence piled up in front of my door, and some of them had blown into the stepholes in the snow. I advised him to say nothing about it, and told him that if we kept quiet perhaps the fox would know his own hole. I went to work for a man I was building some shelving for and who kept a little store. The farmer came in there afterwards and wanted to know whether there had been any checks cashed. He and I were not on speaking terms, because of my attitude toward the Stearns Co. There had been no checks presented there, so he was informed, and as he turned around, I said to him, "Mr. Patterson, I believe I can tell you something about that stuff," and I told him what I had discovered. He asked me if I would go to the house and show them to him, and I told him I would. We went down there, and as we were nearing the place he asked me if I had any idea as to who had done that, and I told him I had. He wanted to know whom I thought it was, and I told him I thought I was walking with the man right then who did it. This roll was finally approved, or the so-called women's and children's roll was finally approved, in 1903, and I think on the 3d day of June. All of them got \$8 straight for their timber instead of 65 cents, \$2, or \$4 per thousand.

It was next attempted to set aside six sections of land on the reservation there for a poorhouse. I opposed that plan, because there was a piece of legislation here pending which provided that every infirm Indian would be liable to go in there and his property sold for not less than \$400, and that went with it. I viewed the whole thing as a penal institution, and I opposed it. The Downs roll was made in 1904. When Mr. Downs came there, that was one of the first questions presented to the council, and the council unanimously turned the poorhouse plan down. When the Downs roll was made, there was a committee elected, if I remember rightly, on February 10, 1904, in council. I was listed as a member of that committee, but I was sick abed at that time and remained so until June, when they had completed that roll. I made an examination of it, and several aged members of the band came to me while I was sick complaining of their being denied recognition. I satisfied myself that there were people on that roll that had allotments elsewhere. They were members of other bands of Indians and were not entitled to allotments. I was satisfied of that, because there was no preferment offered by those aged and denied Indians, that that was the reason why they did not get on the roll. I notified the farmer that I would protest against that roll and use every effort I could to prevent its approval until some adjustment was made. When Mr. Downs came, he asked the committee of twelve if they would not consider or reconsider this roll with a view to correcting it. They refused to do that, and he dissolved the committee.

The CHAIRMAN. Who dissolved the committee?

Mr. ARMSTRONG. Maj. Downs.

The CHAIRMAN. That was what was known as the Downs committee?

Mr. ARMSTRONG. That was the pre-Downs committee. He asked the council to select a new committee to assist him in making a roll, and the council selected a new committee. They selected a committee of five, and I was one of that five.

Mr. RHODES. In what year was that committee selected?

Mr. ARMSTRONG. That was in the fall of 1904.

Mr. RHODES. Who attended that council that elected that committee? Was it a mass meeting attended by all the Indians?

Mr. ARMSTRONG. It was a general council called for anybody and everybody to attend.

Mr. RHODES. Do you know whether, or not, anybody attended it or took part in the meeting who was not entitled to take part in it?

Mr. ARMSTRONG. It has usually been our practice that when we have any matter that particularly concerns the interests of the band, if anybody is present who is not a member, his attention is called to the fact that he has no right to vote on that matter.

Mr. RHODES. And those voting were entitled to sit in the council?

Mr. ARMSTRONG. As a rule, yes, sir.

Mr. RHODES. Were they on that occasion?

Mr. ARMSTRONG. I think they were.

Mr. RHODES. Well, go ahead.

Mr. ARMSTRONG. After that committee was elected, they proceeded to make what is known as the Downs roll.

The CHAIRMAN. Did you eliminate many people who had been enrolled before that in making up the Downs roll? In making up the Downs roll, were there many of those who had previously been enrolled taken from the list?

Mr. ARMSTRONG. I think there were a few.

The CHAIRMAN. How many?

Mr. ARMSTRONG. I can not say.

The CHAIRMAN. Were there 10 or 20?

Mr. ARMSTRONG. There might have been somewhere in the neighborhood of 10.

The CHAIRMAN. Why did you take them off?

Mr. ARMSTRONG. I was about to explain. Up to this time I was unfamiliar with the laws, or with the general allotment laws. I had never known at that time that the Supreme Court had decided that where one Indian was a member of one band and another Indian a member of another band, living in tribal relations, the children would have the right to take allotments with either band.

The CHAIRMAN. But not with both.

Mr. ARMSTRONG. But not with both. There were several such acts or laws that I knew nothing about up to that time, and we had nothing to guide us. We were unable to get any information other than the treaty and the act of February 11, 1901, which provided that no person not entitled to reside on the reservation could be enrolled. A majority of us were not clear on that. We did not clearly understand it. When we were proceeding to make the Downs roll, Mr. Downs, on the first day we proceeded, presented us with a list of Indians. Where he got it, I do not know, but it contained one hundred and seventy odd names. They were full-blood Indians, and a majority of this committee of five were full-blood Indians. I have always felt myself that if anybody was entitled to full tribal rights it was the full-blood Indian. I did not stand in the way of that procedure, although I felt that it was not quite proper.

That night, or the evening following, one of the members named David Blackbird came to my house about 2 o'clock in the morning and told me he could not sleep because of the action taken by the committee, and he asked me if there would not be some way by which that could be undone. I said, "If you want to take that position

with me, you can do it." I simply cited the act of February 11, 1901, to Maj. Downs, and the one hundred and seventy-odd names were eliminated. Nevertheless, we put on children there that were born subsequent to the date of the act, and under the law they were not entitled. This roll was submitted under date of December 4, I think, and in the following spring, in 1905, the Commissioner of Indian Affairs notified us that he could not approve that roll because of the fact that children were placed on there who had no rights, and that in the absence of any law he could not recognize them. There were also persons on there who were seeking allotments on section 16, or the school sections, and the swamp lands.

He could not grant their application because of the fact that the lands were then in litigation. Now I would like to dwell a little on that, Mr. Chairman. About 1898, representatives of the State of Wisconsin attempted to eject some of our women from picking cranberries on our marsh lands.

Mr. RHODES. You mean the State authorities or officers?

Mr. ARMSTRONG. Yes; the State representatives. The old men became very much incensed about that and the principal chief, Joseph Buffalo and Wanebousho came to me and asked me if there could not be some way found as to what the State was basing its right upon to eject these people. They believed these lands were theirs. They had been abidingly fixed by treaty as part consideration for territory they ceded under the treaty of 1854. I was unfamiliar with Indian affairs or any of the laws, but nevertheless I promised them I would try and find out. I set about to get a copy of the enabling act of the State of Wisconsin, a copy of its conventions, a copy of the treaties, and after viewing them, I came to the conclusion that the State had no right to these school sections or swamp lands in the reservation, and I advised them to come to Washington and present their claim here. I was selected a delegate in 1901. We came here and found the claim agent of the State of Wisconsin seeking to get through a bill that would secure those lands to the State of Wisconsin. We opposed that bill. It was not passed and the grantees of the State of Wisconsin have been, every Congress since that time, seeking legislation that would give them these lands. Part of the time we found the Indian office leaning to the grantees more than protecting our interests.

Mr. RHODES. Mr. Chairman, I would like to ask a question just at that point. Is there any such legislation pending now before Congress?

Mr. ARMSTRONG. There is not.

Mr. RHODES. Was there any such legislation pending at the last session of Congress?

Mr. ARMSTRONG. At the last session, no.

Mr. RHODES. You spoke of the State making claim to title to certain property as against the person in possession of the property. Were those school lands and swamp lands settled by Indians or settled by white people?

Mr. ARMSTRONG. They were not settled at all; that is, there was nobody had an abiding home there.

Mr. RHODES. Is there any question to-day between the State of Wisconsin and the Government as to who owns these 16th sections?

Mr. ARMSTRONG. I understand so.

Mr. RHODES. You mean to say that is a matter still in dispute or in litigation?

Mr. ARMSTRONG. Not with us, particularly. The State instituted a suit known as the State of Wisconsin against Ethan Allen Hitchcock, Secretary of the Interior, which went to the United States Supreme Court, and I think that went up in 1904 and in the Spring of 1906 it rendered a decision that the Secretary had a right to allot lands on sections 16 and swamp lands, or sections 16—I do not know that it included swamp lands. The grantees then set about again to get legislation and in 1907, I think it was, they gave us a very close chase, and we had to appeal to the President. It was then proposed by the Indians' Rights Association to me—I eventually alone was making this fight. The chiefs of the reservation at different times—

The CHAIRMAN (interposing). Now you call these men chiefs this time and in all your other statements you have called them so-called chiefs.

Mr. ARMSTRONG. Well, I might say so-called chiefs.

The CHAIRMAN. Just let us have it one way or the other, chiefs or so-called chiefs.

Mr. RHODES. Do you recognize them as chiefs or alleged chiefs?

Mr. ARMSTRONG. Our recognition of them as chiefs is only in an honorary way. We do not think they have any exhibit of authority that they can say I shall have an allotment and John Brown shall not have one.

Mr. RHODES. But you do mean to admit that at that time there were recognized chiefs of these different bands: is that right?

Mr. ARMSTRONG. They style themselves chiefs. I never did.

Mr. RHODES. I am talking about the people. Did the people recognize them as chiefs?

Mr. ARMSTRONG. I presume some of them did.

Mr. RHODES. Well, did the majority of the people recognize the existence of an Indian chief over each band?

Mr. ARMSTRONG. That might have been at the time they were making treaties and receiving payments under the treaties, but subsequent to that time I do not think there had been any such recognition.

The CHAIRMAN. What do you say about Chief Messenger? He claims to have an inherent right to his title handed down to him from his father. Is he looked upon by a considerable number of the band as being their chief, their representative?

Mr. ARMSTRONG. Possibly.

The CHAIRMAN. Well, what is your judgment about it?

Mr. ARMSTRONG. I would think there were some that recognized him in that State.

The CHAIRMAN. You think, then, he has at least a reasonably moral right to call himself chief?

Mr. ARMSTRONG. Well, as I stated before, his father was recognized as the head of a group that received payments under the treaty.

The CHAIRMAN. And the Government transacted their business direct with him in the interest of those people?

Mr. ARMSTRONG. I don't think they did.

The CHAIRMAN. Did not the Indian agent do business with him as chief of those people?

Mr. ARMSTRONG. Well, I don't know what you would call business in the making of a payment.

The CHAIRMAN. Well, if they had correspondence, or if they came there to adjust matters with the tribe, would they not take it up with him the same as they would the chairman of your committee now which is handling their affairs?

Mr. ARMSTRONG. They take it up with anyone who came there for any business.

The CHAIRMAN. Not any more with one, particularly, than anyone else?

Mr. ARMSTRONG. No.

The CHAIRMAN. Now, our time is getting somewhat short, and I have not yet got into my mind clearly what all this is leading up to. Can we not get right down to the meeting of 1914 and find out what sort of a meeting that was and let you tell us what percentage of the people who were there had a right to vote and what they were called there for, and what the result of that vote was, and what that commission did after they were elected in 1914?

Mr. ARMSTRONG. I would like to conclude my present statement, which will only take a few minutes.

The CHAIRMAN. All right, if you can do it in a few monutes.

Mr. ARMSTRONG. At the suggestion of the Indians' Rights Association to defend our interests against the grantees of the State of Wisconsin, I was asked to submit one or more names that might be on the Downs roll, so that the matter might be made a test case. My idea was that such a person would be a John Doe allottee, and take the matter to court, and have the issue between the grantees of the State of Wisconsin and the Indians tried out. When I submitted those names, I was asked first to submit one, and then six, and I submitted six. That was referred to the Indian agency for verification as to what I claimed for those six, and the estimated amount of timber on the particular tracts selected. In turn that was referred to a farmer on the reservation, who added five more names, wholly unknown to the band. This was all returned to the office, proved up, and patents granted to these ten, and suit was instituted and decided by the United States Supreme Court on January 7, 1918, recognizing the Indians' right to these lands.

Mr. RHODES. Mr. Chairman, I would like to ask a question.

The CHAIRMAN. I do not know whether he has concluded his statement. Do you want to continue your statement further?

Mr. ARMSTRONG. If I understood correctly, Mr. Chairman, on the opening of my statement here, I was to show some reason for the existence of this business committee.

The CHAIRMAN. Yes; and I thought we could show that if you got down to 1914, and you are now talking about 1918.

Mr. ARMSTRONG. 1918; yes, sir.

Mr. RHODES. 1908 or 1918?

Mr. ARMSTRONG. 1918.

Mr. RHODES. Last year?

Mr. ARMSTRONG. Yes.

The CHAIRMAN. I do not want you to go by 1914 yet.

Mr. ARMSTRONG. All right.

The CHAIRMAN. Now, I will ask the stenographer to read the question I asked you about 1914.

(The stenographer read the question referred to, as follows:)

The CHAIRMAN. Now, our time is getting somewhat short, and I have not yet got into my mind clearly what all this is leading up to. Can we not get right down to

the meeting of 1914 and find out what sort of meeting that was, and let you tell us what percentage of the people who were there had a right to vote, and what they were called there for, and what the result of that vote was, and what that commission did after they were elected in 1914?

Mr. ARMSTRONG. The act of August 1, 1914, provided for the Secretary to make a final roll, with the assistance of a committee to be selected by the Lapointe Band of Chippewa Indians. That meeting was called on the 17th day of August. It was understood there was a committee of five to be elected. I offered a resolution there by which this committee might be elected by ballot; that we call a council of the band or proceed right there to nominate as many as we cared to, and put all the names on a ballot, and when we voted let each member that desired to vote select his five from that list, and the majority would be our committee. I think there was something like 2,000 people there. That was voted down. Father Gordon took an active part on the other side of the question and voted it down. Then they proceeded to elect the committee by nomination and election. The election was carried on by those in favor filing up on the stage and being counted as they went up, and down on the other side, and those opposed the same way. Myself, William Obern, William Denomie, James Blackbird, and John Condecon were elected such committee.

The CHAIRMAN. Were the other four men who were elected all considered friends of yours?

Mr. ARMSTRONG. No, sir; they were not.

The CHAIRMAN. Did those five men, in your judgment, fairly represent the tribe?

Mr. ARMSTRONG. I think they did.

The CHAIRMAN. It was a fair representation of the tribe?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. Are any of them in the room now?

Mr. ARMSTRONG. Mr. Condecom there [indicating] was a member.

Mr. HERNANDEZ. Of the 1914 commission?

Mr. ARMSTRONG. Yes; the enrollment commission.

Mr. HERNANDEZ. That commission was appointed in obedience to the act of August 1, 1914, and it was purely an enrolling commission?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. Tell us what was done. You say there were about 2,000 there?

Mr. ARMSTRONG. I think there were.

The CHAIRMAN. And what have you to say as to the eligibility of those who were there? It has been stated that about 600 of the 2,000 voted and that there were only 400 of the 2,000 who were eligible. What have you to say about that?

Mr. ARMSTRONG. Well, we had no way of determining who had a right and who did not. Our census rolls were not altogether reliable.

The CHAIRMAN. Was any effort made at that meeting to determine who was and who was not eligible?

Mr. ARMSTRONG. Yes; there was.

The CHAIRMAN. When you got through with your investigation you determined that there were about 600 who had the right to vote?

Mr. ARMSTRONG. I could not say how many there was.

The CHAIRMAN. What is your recollection of the number who voted?

Mr. ARMSTRONG. I think it was somewhere in the neighborhood of 600.

The CHAIRMAN. And is it your recollection that the vote was pretty evenly divided?

Mr. ARMSTRONG. Yes; I think it was.

The CHAIRMAN. The majorities were not great?

Mr. ARMSTRONG. No; not very great.

The CHAIRMAN. After the committee was elected, what did you do then?

Mr. ARMSTRONG. We proceeded to consider these applicants: we convened there that afternoon, I think it was, in that same building, and we asked everybody to come before the committee that was living away from the reservation to send in their names so we might call them up first.

The CHAIRMAN. How did they do that? Did they come before you individually?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. One after the other?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. How many did you see that afternoon?

Mr. ARMSTRONG. Did we see that afternoon?

The CHAIRMAN. Yes, finally. Out of the 2,000, of course, you could not have seen many.

Mr. ARMSTRONG. The room was about full all the time; probably 1,000 people in there.

The CHAIRMAN. But when they came in to present their statements or their credentials, they had to come to you separately?

Mr. ARMSTRONG. Yes; they would come up and we would ask them their names, where they lived, etc. They would come out of the crowd.

The CHAIRMAN. And that was the procedure?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. How many do you think you saw that afternoon?

Mr. ARMSTRONG. Possibly 100.

The CHAIRMAN. Then after you had seen that 100 what method did you take to see the balance of them?

Mr. ARMSTRONG. We continued that.

The CHAIRMAN. You continued right there day after day?

Mr. ARMSTRONG. For a few days.

The CHAIRMAN. Until you had seen them all?

Mr. ARMSTRONG. Until we had listed them all.

The CHAIRMAN. But when you listed them you had to see them, did you not?

Mr. ARMSTRONG. Yes; we had to consider their applications afterwards.

The CHAIRMAN. As you listed them you had to see them?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. You secured a list of names?

Mr. ARMSTRONG. Yes.

The CHAIRMAN. And from the names you took at that time the Wooster roll was made, is that the idea?

Mr. ARMSTRONG. Later on.

The CHAIRMAN. Later on the Wooster roll was prepared from the names that were presented there—is that the idea?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. The Wooster roll is the bone of contention here now, is it not?

Mr. ARMSTRONG. I presume so.

The CHAIRMAN. What do you say about it?

Mr. ARMSTRONG. I do not know whether there is any contention about the Wooster roll or not.

The CHAIRMAN. Well, there seems to be. You were not here to hear the testimony of the other side but, as I understand, the contention here is that there are names that ought to be on the Wooster roll that were not put on it at the time the roll was made. What do you say about that?

Mr. ARMSTRONG. I do not think there is anyone who was entitled that was not put on.

The CHAIRMAN. You do not mean to say that that roll closed at that time; that it took in everyone who was eligible then and that none have become eligible since then.

Mr. ARMSTRONG. Yes, sir; that is what I mean to say.

The CHAIRMAN. And you make the positive statement here that the roll as closed up by Wooster should be the final roll of that tribe?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. That is the principal contention here, as I understand. This tribe, as represented here, maintains that that roll is not sufficient. Now, let us get down to the meeting that was held last July and tell us what you have to say with regard to the method of calling the meeting, the number of people there, whether those who were there were a fair representation of the tribe, and whether you think it was perfectly legal in every respect.

Mr. HERNANDEZ. Before he answers that I would like to ask him a question or two. How did you and your committee of 1914 arrive at the eligibility of these allottees, the people who were entitled to be on the Wooster roll?

Mr. ARMSTRONG. From the act of February 11, 1901, and the treaty of 1854; that is the last treaty we had and this roll closed in 1874. Everyone that had been recognized as a member up to that time was recognized.

Mr. HERNANDEZ. Up to 1901?

Mr. ARMSTRONG. No.

Mr. HERNANDEZ. Up to 1874?

Mr. ARMSTRONG. Yes.

Mr. HERNANDEZ. Then you did not go into the question of how much Indian blood a man or woman should have?

Mr. ARMSTRONG. No; that was not considered at all.

The CHAIRMAN. I will have the stenographer repeat my last question.

(Said question repeated as follows:)

Now, let us get down to the meeting that was held last July and tell us what you have to say with regard to the method of calling the meeting, the number of people there, whether those who were there were a fair representation of the tribe and whether you think it was perfectly legal in every respect.

Mr. ARMSTRONG. I have not the notices nor the letter to the superintendent calling for a council, in which we adopted a resolution—

Mr. RHODES (interposing). Who issued the notice?

Mr. ARMSTRONG. We addressed a communication to the superintendent, P. S. Everest—25 members of the band addressed a communication to him. We saw that after the decision of the Supreme Court on the school section, and swamp land proposition, and because of those lands having been in litigation and the allotment that pre-

ceded the 1914 roll, the Wooster roll, there were not sufficient lands to allot 545 people 80 acres of land, because of that litigation, although we had thought we would have ample land, and so we thought it would be necessary to take some action that would apprise the department of our desire to have the matter closed up. We, therefore, addressed the superintendent, as I said awhile ago, signed by 25 members of the band, asking that a council be called. He called a council, of which he gave notice.

Mr. RHODES. Just a moment. The notices to which the young men referred a while ago as having been seen by him but which notices he did not know were signed at all, or if signed by whom, are they the notices you refer to now as having been issued by the superintendent?

Mr. ARMSTRONG. By the superintendent; yes, sir.

The CHAIRMAN. What, if anything, did the Indian Bureau have to do with the calling of this meeting?

Mr. ARMSTRONG. I do not know.

The CHAIRMAN. I am speaking now of the meeting of last year, when your last committee was formed.

Mr. ARMSTRONG. Well, as I stated awhile ago, we addressed the superintendent and asked him to call that meeting.

The CHAIRMAN. Who suggested to you or any other member of the 25 that you should get up this petition to the superintendent?

Mr. ARMSTRONG. We conversed among ourselves on the streets and in other places; we held little meetings, first at one man's house and then at another man's house, in the evenings.

The CHAIRMAN. To your best knowledge and belief there was no action taken, in the getting up of that petition, by the Indian Bureau or anybody representing them or the superintendent of the agency?

Mr. ARMSTRONG. No, sir; they had nothing to do with it.

The CHAIRMAN. Would they have had any interest in doing it?

Mr. ARMSTRONG. No; they would not.

The CHAIRMAN. In fact, their interest would have been against what you wanted to do, would it not?

Mr. ARMSTRONG. Oh, I would not say that.

The CHAIRMAN. Only to this extent: You could say that they had considered the matter closed and you were trying to open it.

Mr. ARMSTRONG. No; I do not think they considered the matter closed.

The CHAIRMAN. Well, I do not understand it. You had better give us more information about that.

Mr. ARMSTRONG. Well, I may state it this way: That this act of August 1, 1914, not only provided for the making of that roll but provided for the allotment of land, 80 acres to each person. Well, when they proceeded to make that allotment, by reason of part of it being in litigation, school sections and swamp lands, there was not enough land available to allot the 80 acres but only 60 acres, and that allotment proceeded under the law. Since the Supreme Court's decision in the matter we consider the balance of it available, and in order to take proper steps to protect our interests we sought to have this council, and everything is set out, I think, in this resolution.

The CHAIRMAN. It was your idea to try to find some land to allot to those who could not be allotted, or to find some other method of compensating them for the allotment? Was that the idea?

Mr. ARMSTRONG. No, sir; that was not the idea at all. They were entitled to 80 acres of land under the law, and as soon as that unallotted land became available, it was theirs. That was our position.

The CHAIRMAN. What did you seek to do?

Mr. ARMSTRONG. We endeavored to have an additional allotment made.

The CHAIRMAN. Out of what? There was no land out of which to make it.

Mr. ARMSTRONG. Yes, sir; we have 14,000 acres more.

The CHAIRMAN. I understood you to say a short time ago that when this roll was made there was not enough land to go around and give them 80 acres apiece.

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. Where did you expect to get the other land?

Mr. ARMSTRONG. We were contending before the Supreme Court of the United States that we were entitled to section 16 and the swamp land.

The CHAIRMAN. And you are still contending that?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. You are still contending that?

Mr. ARMSTRONG. Yes, sir. We have them ourselves, and they are ours.

The CHAIRMAN. They have been allotted?

Mr. ARMSTRONG. They have not been allotted.

The CHAIRMAN. But you have land to be allotted?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. That was the purpose of this meeting last July?

Mr. ARMSTRONG. That was a part of it.

The CHAIRMAN. To get that land allotted?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. Since that meeting what have you done to bring that about?

Mr. ARMSTRONG. We have been conferring with the Indian Office.

Mr. HERNANDEZ. When those swamp land and school land matters were decided in your favor by the Supreme Court—I believe you said section 16?

Mr. ARMSTRONG. Section 16; yes, sir.

Mr. HERNANDEZ. In some States the enabling act gives sections 16 and 36.

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. Section 16 became Indian land by that decision, and also a certain amount of swamp lands?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. You had already allotted 60 acres.

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. To each one of the members of the band or tribe?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. Then, by this decision, you thought you had 20 acres more to allot to each one of those people?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. And that is what you are seeking to do now?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. Then, the contention by some other members of the tribe is that a good many of them were left off from the Wooster roll that were entitled to be on that roll? Their contention is that they have a tribal status there and that they would be entitled to 80 acres of this swamp land and school land.

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. That is what some of them contend?

Mr. ARMSTRONG. Yes, sir.

Mr. HERNANDEZ. Are these swamp lands and school lands valuable for timber?

Mr. ARMSTRONG. They are; yes, sir.

Mr. HERNANDEZ. In allotting these lands, you always reserve the timber to the tribe as a whole, do you not? Has that been done, or has it been given to each member of the tribe outright, with all the minerals and timber?

Mr. ARMSTRONG. That was formerly the method, and some were given allotments worth \$26,000, while others were getting allotments worth three or four hundred dollars. We set about, after getting the so-called Downs roll, to seek legislation that would equalize them, and that came to us in the act of August 1, 1914. The timber is sold collectively. Everyone is entitled to 80 acres of land, and the proceeds from the sale of the timber is credited to each enrolled member.

The CHAIRMAN. We have got to close this hearing, but before we do, I want to see if we can get a final statement from you with regard to that meeting held there. You maintain that that meeting was a strictly legal one, held in a regular way, and that your committee was regularly and legally elected by that body?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. And that your committee has given the tribe a fair administration since it was elected?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. And that you and your committee are working in the interest of the entire tribe—

Mr. ARMSTRONG (interposing). We are.

The CHAIRMAN (continuing). And not in the interest of any set or clique or any portion of the tribe?

Mr. ARMSTRONG. No, sir.

The CHAIRMAN. And that you are giving the tribe the best ability you have in the interest of the entire tribe?

Mr. ARMSTRONG. Yes, sir.

The CHAIRMAN. That is the statement you make?

Mr. ARMSTRONG. Yes, sir; that is the statement I make.

The CHAIRMAN. We have got to close the hearing now, and we ask you to file any papers you have or any further statement you desire to make with regard to the matter for the record, and we will ask the other side to do the same thing.

Mr. ARMSTRONG. Yes, sir.

Mr. RHODES. In your opinion, has anybody been left off the last roll that was made who was entitled to enrollment?

Mr. ARMSTRONG. Well, in my opinion, nobody has been left off.

Mr. RHODES. I understand that it is contended by some of these older members that there are some who are entitled to participate in the benefits accruing to members of the band but who were left off, and you dispute that?

Mr. ARMSTRONG. I dispute that.

The CHAIRMAN. We will now consider the hearing closed.

(Thereupon, at 1 o'clock p. m., the committee adjourned.)

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ST. CROIX INDIANS OF WISCONSIN

HEARING ON H. R. 2264

(By Mr. NELSON)

BY THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

JULY 23, 1919

Dup. 1920
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1919

ST. CROIX INDIANS OF WISCONSIN.

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, July 23, 1919.

The subcommittee met at 11 o'clock a. m., Hon. John A. Elston (chairman) presiding.

STATEMENT OF HON. A. P. NELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN.

Mr. ELSTON. This meeting of the Subcommittee on Treaties and Tribal Funds of the Committee on Indian Affairs was called by me, as chairman, to consider the bill, H. R. 2264, introduced by Congressman A. P. Nelson, of Wisconsin, and Senate bill 4699. I think the better way to proceed, Mr. Nelson, is to have you make a statement relative to the bill.

Mr. NELSON. Mr. Chairman, I desire, in the first place, to place in the record the following historical data relative to the bill, which gives in concrete form information which will enable the committee to correctly give reasons for a favorable report on the bill.

Mr. ELSTON. The data to which you refer may be inserted in the record at this point.

(The matter referred to is as follows:)

HISTORICAL.

The Indians for whom relief is sought as set out in the pending bill consist of certain Indians in Washburn, Barron, Douglas, Burnett, Polk, Ashland, Bayfield, Rusk, and Outagamie Counties, in the State of Wisconsin and numbered 85 at the beginning of 1915, some of whom have since died.

It has been fairly correctly ascertained by the verification of tradition, by investigation of special agents and from other investigations, that these Indians practically all belong to the bands with whom a treaty was made by the United States Government September 30, 1854. At that time Chief Buck was the leader of the Indians for whose benefit this legislation is intended, although at that time his tribe was very large and occupied a considerable area of northern Wisconsin. Under the treaty of 1854 practically all of Chief Buck's tribe received payments up to and including 1873. Between 1868, or about that date, and 1873, most of this tribe moved onto reservations established by the Government and received their respective allotments amounting to 80 acres of land for each Indian of 21 years of age. The 95 Indians for whom relief is sought did not remove to any reservation, but for the most part remained upon the head waters of the Yellow River and the St. Croix River and there remain to this day.

Government investigations and records fail to notice or at least emphasize the reason for these Indians not having removed to a reservation. The reason is because it was the belief on their part that their chief never signed the

treaty of 1854 and that they were never bound thereby. Chief Buck has long since died, but his grandson, young Buck, is alive and a member of the Indian Council which still acts in behalf of a loose organization of the St. Croix Band.

A copy of the treaty of September 30, 1854, with the Chippewa Nation, is filed with the committee, as it bears directly on the right of the so-called "Lost Band of Indians," or St. Croix Chippewa, who were found by the investigating officials as reported in Exhibits A and B, Exhibit A being House Document No. 1253, third session, Sixty-third Congress, and Exhibit B being House Document No. 1663, Sixty-third Congress, third session, to belong mainly to the Lac Courte Oreille Reservation, one of the reservations created by the said treaties, which also made certain annuity provisions for the Lac Courte Oreille Band.

It is claimed by many of the St. Croix Indians both among those 95 who have been found entitled to allotments as well as by those many hundreds who have not been found entitled to allotments, that Chief Buck never signed the treaty of 1854 and in fact refused to sign it, but be that as it may the important feature is that the St. Croix Band did not remove entirely to the reservations under a belief that their chief had never signed away their lands. In this connection it is interesting to note that under a former treaty with the Chippewa Indians, including the St. Croix Band, which treaty is dated 1837, article 5 reads as follows:

"The privilege of hunting, fishing, and the gathering of wild rice on the lands the rivers, and the lakes included in the territory ceded is guaranteed to the Indians during the pleasure of the President of the United States."

Anyone at all familiar with the habits of mind of the full-blooded Chippewa Indian will understand that when the treaty of 1837 was signed the Indians understood that they could go on as before and that they parted with nothing other than a nominal assuagement in the sovereignty of the United States Government. It is a well-known fact to those familiar with the St. Croix Band of Indians that they regarded the latter treaty of 1854 in the same light, and never expected that their then unsettled country would be taken from them so that their hunting, fishing, and other means of livelihood would be restricted and curtailed.

No one can seriously question the fact that these 95 Indians, to whom reference will be made hereafter, were absolutely entitled not only as a matter of humanity and justice but as a matter of legal right to participate in the very inadequate payment made by the Government to each head of a family and each Indian over 21 years of age under the terms of the treaty of 1854. To put it plainly, all of the heads of families and all Indians over 21 years of age were, prior to and in 1873, entitled to 80 acres of land as an allotment. It is true that there was a general allotment act, dated February 8, 1887, but none of the Indians for whom relief is asked in the pending bill participated in the benefits of that act as is mentioned in Document No. 1663, Sixty-third Congress, third session, bottom of page 2. Therefore, these Indians are unjustly excluded from the benefits to which they are manifestly entitled and have been so excluded for a long period of years. It seems self-evident that the Government of the United States is in honor bound to either provide allotments or pay to the Indians entitled thereto money equivalent to the value of an allotment which would amount in each case and instance to at least \$1,500. There are no lands to be allotted upon the reservations, hence the provisions of the bill now pending provided the only means by which the Government can fulfill its obligations which have been wholly too long disregarded.

A SUMMARY OF THE STEPS TAKEN BY THE CONGRESS LOOKING TO THE RELIEF OF THE ST. CROIX BAND OF INDIANS.

During the time that Congress has unfortunately been cruelly dilatory in providing for the relief of the St. Croix Band of Indians, still something has been done in their behalf, and, as early as August 1, 1914, the following act of Congress was approved:

"That the Secretary of the Interior be, and he is hereby, directed to cause an investigation to be made of the condition and tribal rights of the so-called Saint Croix Chippewa Indians, now residing in the counties of Polk, Burnett, Washburn, and Douglas, State of Wisconsin, and said to be in a destitute condition; that he shall ascertain and report to Congress at the beginning of the next session thereof whether the said Indians belong to the Lake Superior Chippewa

or Wisconsin, or to the Chippewa of Minnesota; what tribal rights, if any, they have with any band or tribe of Chippewa Indians residing in either Minnesota or Wisconsin; what benefits in land and money they would have received had they removed to a reservation in Wisconsin or had not been excluded from enrollment and allotment with the Chippewa Indians of Minnesota under the provisions of the act approved January 14, 1889. (Twenty-fifth Statutes at Large, page 642.) That he shall cause a census and enrollment to be made of the said Saint Croix Chippewa, and shall report their actual conditions and needs, with such recommendations for their relief as he may deem necessary."

The Department of the Interior acted very promptly under the provisions of this act as is shown by the preliminary report dated December 1, 1914, and known as Document No. 1253, Sixty-third Congress, third session. The final result of the investigation ordered by Congress is set out in House Document No. 1663, Sixty-third Congress, third session, which embraces a report naming the Indians whose names are placed upon a final roll and who are unquestionably entitled to the relief Congress may see fit to provide for them. It seems clear that Congress having authorized an investigation to determine certain facts and the investigation having been completed and having ascertained those facts should have little hesitation in putting into effect the relief which is deserved, which is legally and morally just and which the Indians so sorely need at this time.

The pending bill is one simply designed to carry out the recommendations of the Secretary of the Interior and to make effective what was in the mind of Congress at the time it authorized an investigation and report. The pending bill has been favorably recommended by the Secretary of the Interior, and is approved by all those who have any knowledge of the facts and of the circumstances connected with this matter. After the investigation which has been made, the results of which are before Congress, it is difficult to conceive how any reasonable man could make objection to the relief provided for unless he could make the objection that the provisions of the bill are far less than they ought to be, and less than what the Indians whose names appear upon the final roll are actually entitled to.

FINAL.

The honorable Commissioner of Indian Affairs has in his records information covering the great number of Indians including members of the St. Croix Band of Indians who have during the late war entered the service of the United States Government, and offered their lives in defense of our country. The lists of every bank and banker in northern Wisconsin contain the names of hundreds of Indians, including members of the said St. Croix Band of Indians, who have subscribed thousands of dollars to Liberty bonds and to other activities connected directly or indirectly with the conduct of the war. It would certainly be a cause of regret, if not a keen disgrace, for the same Government which has received the glad tribute not only of material things, but of life itself from these Indians to now refuse justice to them, and to refuse the comparatively trivial recompense which they ask in exchange for territory which they have surrendered, and which in extent equals more than the area of some of the smaller nations of Europe. At this time when hundreds of millions of dollars have been sent overseas to aid peoples and nations who are strangers to us, and in many cases almost open enemies, it would seem wholly inconsistent to withhold payment of an honest debt to citizens of our own country who have offered everything they have in defense of our whole nation.

The spirit of devotion and sacrifice by the Indian in helping to win the glorious victory in the great World War has been marked indeed. Commissioner Sells, of the Indian Bureau, has said that out of the 10,000 Indians in the war, 75 per cent had volunteered. It is also stated that it was an Indian who first swam the Marne, and was among the 100 American soldiers cited by Gen. Pershing for bravery. Mr. Sells has also said that the Indians had purchased over \$25,000,000 in Liberty bonds, an average per capita of \$70. In brief, the Indians have shown their utmost loyalty to our flag, our country, and to our ideals, and it is up to us as a Congress, and as a Nation, to give them absolute justice, and that is all that we claim under the provisions of this bill.

I wish to place, herewith, in full Exhibit A, Document No. 1253, Sixty-third Congress, third session, and following it Exhibit B,

Document No. 1663, Sixty-third Congress, third session, as these documents give the complete history up to date of the case:

EXHIBIT A.

[House Doc. No. 1253, 63d Cong., 3d sess.]

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN.

Letter from the Secretary of the Interior, transmitting a preliminary report of investigation as to the condition and tribal rights of the so-called St. Croix Chippewa Indians of Wisconsin. December 9, 1914, referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, December 7, 1914.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to invite your attention to the following act of Congress approved August 1, 1914 (Public, 160):

"That the Secretary of the Interior be, and he is hereby, directed to cause an investigation to be made of the condition and tribal rights of the so-called St. Croix Chippewa Indians now residing in the counties of Polk, Burnett, Washburn, and Douglas, State of Wisconsin, and said to be in a destitute condition. That he shall ascertain and report to Congress at the beginning of the next session thereof whether the said Indians belong to the Lake Superior Chippewa of Wisconsin or to the Chippewa of Minnesota; what tribal rights, if any, they have with any band or tribe of Chippewa Indians residing in either Minnesota or Wisconsin; what benefits in land and money they would have received had they removed to a reservation in Wisconsin or had not been excluded from enrollment and allotment with the Chippewa Indians of Minnesota under the provisions of the act approved January 14, 1889. (25 Stat. L., p. 642.) That he shall cause a census and enrollment to be made of the said St. Croix Chippewa, and shall report their actual condition and needs, with such recommendation for their relief as he may deem necessary."

In compliance with the provisions of the law cited (*supra*), I have the honor to submit a preliminary report, dated December 1, 1914, from W. M. Wooster, an employee in the Office of Indian Affairs, who was detailed for the purpose of making the investigation as to the condition and tribal rights of the so-called St. Croix Chippewa Indians of Wisconsin as provided in said act.

From the inclosed report of the clerk mentioned it appears that this so-called St. Croix, or "lost Chippewa Tribe," has finally been identified and belongs in the main to the band of Chief Buck or Ai-yaw-ban-se, who was one of the Lac Courte Oreille chiefs signing the Chippewa treaty of September 30, 1854 (10 Stat., 1109), and who, with his followers, received payments as a member of the said band up to and including 1873; that these St. Croix Indians are in the main citizens of the United States and of the State of Wisconsin and are voters; that they for the greater part are getting along as well as their white neighbors with whom they live, associate, and are intermarried; and that there are but few cases of destitution among them. It appears also that there may be a number of these Indians who seem equitably entitled to benefits from the Government on account of their having been recognized members of the Lac Courte Oreille Band and not having received their share or allotment of land on the reservation provided for the said band by the treaty of September 30, 1854.

As soon as the supplementary report of the investigating clerk, with a census of these Indians and a roll of those entitled to benefits from the Government, shall have been received a further report will be promptly submitted for such action, if any, as Congress in its wisdom may deem necessary.

Respectfully,

FRANKLIN K. LANE, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 1, 1914.

The honorable the COMMISSIONER OF INDIAN AFFAIRS.

MY DEAR MR. SELLS: Agreeably to your instructions of August 1, 1914 (L. Cont. 83247-1914), to investigate the condition and make an enrollment of the

so-called St. Croix Chippewa Indians of Wisconsin, I have the honor to submit the following report:

The act of Congress approved August 1, 1914 (Public, 160), which authorizes the investigation and enrollment, reads:

"That the Secretary of the Interior be, and he is hereby, directed to cause an investigation to be made of the condition and tribal rights of the so-called St. Croix Chippewa Indians now residing in the counties of Polk, Burnett, Washburn, and Douglas, State of Wisconsin, and said to be in a destitute condition. That he shall ascertain and report to Congress at the beginning of the next session thereof whether the said Indians belong to the Lake Superior Chippewa of Wisconsin or to the Chippewa of Minnesota; what tribal rights, if any, they have with any band or tribe of Chippewa Indians residing in either Minnesota or Wisconsin; what benefits in land and money they would have received had they removed to a reservation in Wisconsin or had not been excluded from enrollment and allotment with the Chippewa Indians of Minnesota under the provisions of the act approved January 14, 1889. (25 Stat. L., p. 642). That he shall cause a census and enrollment to be made of the said St. Croix Chippewa, and shall report their actual condition and needs, with such recommendation for their relief as he may deem necessary."

Upon completing my enrollment work with which I was previously charged at the Bad River Reservation, Wis., I proceeded promptly to Shell Lake, Wis., and after consultation with Judge J. H. Mead, of that place, engaged as interpreter John Lonestar, a full-blood St. Croix Chippewa and a graduate of the Carlisle Indian School. I then, with my interpreter, visited successively the various villages, towns, etc., in Wisconsin most available for these Indians, and held councils with them and made the investigation and enrollment as instructed. Also at many places trips were made on foot to the rude homes or shacks of the Indians in order to learn at first hand their actual condition, and what subsistence or supplies, if any, they had for the winter.

These Indians, called also the "Lost Tribe of Chippewa," have lived for many generations along the headwaters of the St. Croix and Yellow Rivers in middle-western Wisconsin. At present most of them live as squatters on public lands in the counties of Douglas, Burnett, Polk, and Washburn. They were also found in the adjoining counties of Bayfield, St. Croix, Barron, and Rusk. A number are residing at Odanah, on the Bad River Reservation, and a few are scattered widely throughout the said State.

At Shell Lake, Washington County, and vicinity, including the towns of Springbrook and Cable, there were enrolled 10 families, aggregating 126 persons; at Spooner, Washburn County, 7 families, aggregating 112 persons; at Cumberland, Barron County, 3 families, containing about 53 persons; at Rice Lake, Burnett County, 2 families, with 29 persons therein; at Gordon, including Solon Springs, Douglas County, 16 families or groups, embracing 157 persons; at Ladysmith, Rusk County, 5 families, 43 persons; at Luck, Polk County, including the town of Frederic, 12 families with 78 persons; at Danbury, including Markville, Orange, Randall, Sand Lake, and Ciam Lake, Burnett County, 31 groups, embracing 273 persons.

METHOD OF ENROLLMENT.

As indicated, councils were held at the various places mentioned, and each person applying for enrollment or found to have been previously classed as a St. Croix Indian, was carefully examined, through the interpreter or otherwise, as to his family history, Indian blood, residence up to the present time, and what income or property he or she possessed. Also the names of the grandparents and great-grandparents on both sides were, wherever possible, ascertained, and the names of the chief or chiefs were in every instance found by careful inquiry, not only of the witness but of the best-versed and most reliable Indians present.

The roll of the payment made in 1863 to all of the Lake Superior Bands of Chippewa was used by me as a basis in ascertaining the names of the chiefs of the bands to which the various applicants' ancestors, and in some cases applicants themselves, belonged; and I was enabled thereby to determine to just what band the so-called St. Croix Chippewa actually belong.

Upon a careful examination of John Medweosh, the sole surviving headman of the band of Chief Buck, or Ai-yaw-ban-se, who resided with his people in 1863 on both sides of the St. Croix River from the dam near Cameron to the site of the present town of Stillwater, Wis., it was ascertained that the said

Buck was one of the signers of the treaty of September 30, 1854 (10 Stat. L. 1109), as one of the chiefs of the Lac Courte Oreille Band, and that he and his followers received all of the payments arising under the said treaty as members of the Lac Courte Oreille Band, though this chief and his adherents steadily refused to move to the Lac Courte Oreille Reservation, preferring to remain in the good hunting and trapping country along the St. Croix and the Yellow Rivers.

With this information in mind a council of the principal men of the Lac Courte Oreille Band was held on the Lac Courte Oreille Reservation, at which the superintendent in charge was present, and it was admitted by the Indian at the council that Chief Buck and his followers were members of their band and properly belonged on their reservation. It was said also that some of them, as was brought out in the investigation made by me, received allotment on the Lac Courte Oreille Reservation, and money arising from the sale of their timber thereon, though they never resided permanently with the band at Lac Courte Oreille.

Many of the so-called St. Croix Chippewa were found to have intermarried with allottees of other reservations, including the Mississippi bands, and to have voluntarily left their reservations to take up the nomadic shiftless life of the St. Croix Indians. Further, at the time of the enrollment at Bad River the sole surviving chief, James Blackbird, of the Bad River or La Pointe Band was questioned most carefully with respect to the identity and rights of the St. Croix Chippewa.

In addition, one of the old mixed-blood La Pointe Chippewa, now residing at Bayfield, Robert Morrin, sr., about 72 years of age, who acted as herald when the various bands received their payments at La Pointe, and recollects clearly the history of the movements of the various bands following the treaty of 1854, also was interrogated; and the testimony of these two old men corroborated fully the statements of Medweosh and the surviving headmen of the Lac Courte Oreille Reservation as to the St. Croix Chippewa in the main belonging by blood and descent to the Lac Courte Oreille Band of Chippewa.

DETERMINATION OF LEGAL RIGHTS.

While the language of the said act seems to restrict the investigation and report to those St. Croix residing in the four counties mentioned therein. It was learned that many of them are wanderers who frequently go from one county to another and change their places of abode in accordance with caprice or the necessity of picking berries, hunting muskrats, etc. It was therefore deemed advisable, in order to make a complete and thorough investigation, to embrace also such of these Indians as were found living outside of the four said counties, thereby enabling Congress to have before it the entire situation. Accordingly all the St. Croix residing in Wisconsin of which I could learn were entered on the tentative roll from which has been prepared a final roll of those believed to be entitled to benefits from the Government. The tentative roll will contain the names of all persons investigated and the final roll only those entitled to benefits as Indians. The reasons for omitting from the roll last mentioned certain names on the tentative list will be set out on the latter roll.

The act of Congress cited specifically directs, *inter alia*, a report as to—

(1) Whether these Indians belong to the Lake Superior Chippewa (Wisconsin) or the Chippewa of the Mississippi (Minnesota), and what tribal rights, if any, they have with any of the bands thereof.

(2) What benefits, land or money, they would have received had they removed to the reservations provided for such bands.

It seems clear, therefore, that for the purpose of determining their rights, if any, their status would be on all fours with claims of applicants for enrollment with the band or bands to which their ancestors were found to belong.

This plan of procedure will accordingly be followed, and only those persons will be entered on the final roll for relief from the Government as would be entitled to enrollment with the band to which they belong, under the ruling of the department, the decisions of the courts, and the laws applicable thereto.

In the case of *Julia B. Oakes et al. v. United States* (172 Fed. Rep. 305), Judge Van Devanter (now of the Supreme Court) held, August 2, 1909, in effect with respect to applicants for enrollment with the Chippewa of Minnesota, that Indians abandoning tribal relations once existing and living among whites are, under the acts of March 3, 1875 (18 Stat. L. 402), and February 3,

1887 (24 Stat. L., 388), entitled to share in the tribal property of the band, but that the children of such parents are not so entitled.

The great Chippewa Nation was, by the treaty of September 30, 1854 (10 Stat. L., 1109), divided into the Lake Superior Chippewa and the Chippewa of the Mississippi, and payments were made thereunder up to and including 1873. All of the bands of the Superior Chippewa received most of such payments at their village of La Pointe, on Madeline Island, Wis. In the late sixties these bands of the Lake Superior removed to or remained upon their separate reservations established by the said treaty, and the last payment of 1873 thereto was received by them on their respective reserves.

As heretofore mentioned, most of the St. Croix were found to belong to bands of which Buck, or Al-yaw-banse, was chief. All the members of his band received their payments regularly with the other Lac Courte Oreille Bands as belonging to the Lac Courte Oreille Reservation, but steadily refused to remove thereto. Their status, therefore, was that of absentee members of the band, voluntarily residing in the region of the St. Croix and Yellow Rivers; and such of them as participated in the payment of 1873 clearly had existing tribal relations with, and were recognized as members of, the Lac Courte Oreille Band.

With the disappearance of game along the headwaters of the Yellow and St. Croix Rivers, and the settlement of this country by the whites, these absentees intermarried therewith and adopted the habits and customs of civilized life. A number of them were found to have homesteaded land as citizens on the public domain; a majority of them were found to be in as good circumstances as the average white settlers in such communities; in a few cases full-blood St. Croix women were married to whites of considerable wealth. In the main they are better advanced along the lines of civilization and in their ability to cope with the ordinary whites than are many of their cousins who reside upon reservations.

It is thought that the rule laid down in Judge Van Devanter's decision should be followed in determining who will be entitled to tribal benefits.

It is believed that such of these Indians as may be found entitled to enrollment at Lac Courte Oreille can now receive no benefits as Indians of that reservation, as all the lands thereof have practically been allotted, and there are now remaining no trust funds held by the Government to the credit of the Lac Courte Oreille Band of Lake Superior Chippewa. Had they removed to the said reservation, and had sufficient land for allotment purposes been available, the heads of families and single persons over 21 years of age would have received 80 acres of land in allotment—a fair average valuation of which, taking into consideration the timbered lands, is believed to be about \$1,500 each.

ACTUAL CONDITIONS AND NEEDS.

These Indians, by reason of their having adopted the customs and habits of civilized life and residence there among, are citizens of the United States and of the State of Wisconsin, and nearly all of them are voters. Those residing in the small towns and villages live, in the main, as do their white neighbors, with whom they have, as a rule, intermarried, and are engaged in the usual vocations. A few instances of destitution were found, and these will be made the subject of a further report in connection with the matter of just what, if any, benefits are due the St. Croix from the Government.

CENSUS.

Between 800 and 900 persons were enrolled on the tentative list, and as their legal rights will have to be determined, as heretofore mentioned, additional time will be required therefor.

A supplementary report, containing a tentative roll and census list, and also a final roll of those entitled to receive benefits from the Government, with proper recommendations, will be submitted as soon as the rolls indicated can be properly prepared.

Very truly, yours,

W. M. WOOSTER,
Clerk and Special Disbursing Agent.

EXHIBIT B.

[House Doc. No. 1663, Sixty-third Congress, third session.]

ST. CROIX CHIPPEWA INDIANS.

Letter from the Secretary of the Interior, transmitting a supplemental report with respect to the investigation and enrollment of the so-called St. Croix Chippewa Indians of Wisconsin, in accordance with the provisions of the act of Congress approved August 1, 1914, together with a final roll of St. Croix Chippewa believed to be entitled to benefit from the Government. March 2 (calendar day, Mar. 3), 1915, referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR.

Washington, March 3, 1915.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: Referring to my report of December 7, 1914, with respect to the investigation and enrollment of the so-called St. Croix Chippewa Indians of Wisconsin, in accordance with the provisions of the act of Congress, approved August 1, 1914 (Public 160), I have the honor to transmit for your consideration a further report, from the clerk detailed for the purpose of making the enrollment mentioned, together with a final roll of 95 St. Croix Chippewa, believed to be entitled to benefits from the Government.

From the inclosed report it appears that the Chippewa whose names are set out on the final roll have received their full shares of payments made to members of the tribe or band to which they belong, under the provisions of the treaty of September 30, 1854 (10 Stat. L., 1109), and that had these Indians removed to their respective reservations they would have been entitled to 80 acres of land each—in value approximating the sum of \$1,000 or \$1,500.

It appears, also, from the inclosed report that these Indians are all civilized, are fairly well-to-do, and more capable of coping with the whites than are the usual run of reservation Indians; also, that there is but little destitution among them—a few needy families at Cross Lake near Shell Lake, Washburn County; at Danbudy, Burnett County; and at Milltown, near Luck, Polk County, Wis.

Respectfully,

FRANKLIN K. LANE.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.

Washington, January 13, 1915.

The honorable the COMMISSIONER OF INDIAN AFFAIRS.

MY DEAR MR. SELLS: Referring to my letter of December 1, 1914, making a preliminary report as to the status of the so-called St. Croix Chippewa of Wisconsin, I have the honor to submit a further report, with rolls of these Indians, as required by the act of August 1, 1914 (Public, 160), which reads, in part, as follows:

"That the Secretary of the Interior be, and he is hereby, directed to cause an investigation to be made of the condition and tribal rights of the so-called Saint Croix Chippewa Indians now residing in the counties of Polk, Burnett, Washburn, and Douglas, State of Wisconsin, and said to be in a destitute condition. That he shall ascertain and report to Congress at the beginning of the next session thereof whether the said Indians belong to the Lake Superior Chippewa of Wisconsin, or to the Chippewa of Minnesota; what tribal rights, if any, they have with any band or tribe of Chippewa Indians residing in either Minnesota or Wisconsin; what benefits in land and money they would have received had they removed to a reservation in Wisconsin or had not been excluded from enrollment and allotment with the Chippewa Indians of Minnesota under the provisions of the act approved January fourteenth, eighteen hundred and eighty-nine (Twenty-fifth Statutes at Large, page six hundred and forty-two). That he shall cause a census and enrollment to be made of the said Saint Croix Chippewa and shall report their actual condition and needs, with such recommendation for their relief as he may deem necessary."

In my preliminary report it was shown where these Indians belonged and what benefits they would have received had they removed to their reservations under the provisions of the treaty of September 30, 1854 (10 Stat. L., 1109).

Their actual conditions and needs as a class were also shown and it was said that a further report would be made as to the few instances of destitution among them.

All of the persons examined were entered upon a tentative roll. From this roll a final report has been prepared and is inclosed, which embraces but 95 persons who are believed to be entitled to benefits from the Government.

Only such of these persons on the tentative roll as participated in the last treaty payment of 1873 to the Lake Superior bands, and have not received allotments of land as Indians under the provisions of the said treaty, or allotments under the fourth section of the general allotment act of February 8, 1887, and are not already enrolled and reside on Indian reservations, have been included in the final roll. This excludes all persons under the age of 41 years, and also all women whose husbands have received allotments of land. Further, in instances where both the husband and wife have been incuded on the tentative list, the wife has been omitted from the final roll, as only the heads of families were entitled to allotments under the provisions of the said treaty.

As these rolls were prepared mainly from first-hand information in the field, and from the applicants themselves, copies of both the tentative and final rolls have been sent to the superintendents in charge of the Fond du Lac Courte Oreille Chippewa with the request that a careful examination thereof be made, to the end that it may be ascertained whether or not any of the persons named on the final roll have been allotted, possibly under different names than those given at the time of the field examination. This has been done in order that all Indians who have received allotments under the treaty might be excluded from the final roll of those believed to be entitled to benefits from the Government.

It is believed that the persons on the final roll belonging to the Fond du Lac Courte Oreille bands would be entitled to between \$1,000 and \$1,500—the approximate value of an allotment of 80 acres of land, which they would have received had they originally removed to their respective reservations in accordance with the provisions of the treaty. It is therefore recommended, should you approve, that proper steps be taken to obtain from Congress an appropriation to pay these Indians the approximate cash value of the land which they would have received, as indicated.

As was set out in the said preliminary report, these Indians in the main are doing fairly well as farmers and in earning a living; they are citizens and voters; are largely intermarried with the whites in the several communities where they live; and are engaged in the vocations usually followed by the whites in small towns and villages.

Summing up the entire situation, I am of the opinion that they have made far greater progress along the lines of civilization and are in a better condition to earn their own living than had they removed to their reservations and remained thereon.

A few cases were found where these Indians live as squatters in the woods in birch-bark tepees or wigwams and are in need of assistance. These instances are:

1. Crane Lake, about 5 miles southeast of Shell Lake, Washburn County, Wis.

Here was found the family of Bill Nevlosh, embracing 17 persons, living in a rude shack containing only one room, with absolutely no supplies whatever for the winter.

Also in this place were located William Taylor and his brother John—about 15 persons—in two small shacks of one room each. No supplies for the winter.

The adult males of these families work in the woods across the lake, hunt and trap, fish, and pick berries. As the usual cranberry and wild-rice crops were total failures the last season, they are short of supplies and will suffer this winter unless relief be extended them by charitable whites or friends living in the town of Shell Lake.

2. Danbury, Burnett County, Wis.

Near the small town of Danbury was found the full-blood Lac Courte Oreille Indian, Sheshosh, 50 years of age, living in a wigwam in the woods with his wife and small son. This family is very poor, and depends on hunting and trapping small game for a living. No supplies for the winter.

3. Milltown, Polk County, Wis.

The families of George and John Buck, full-blood Lac Court Oreille Indians, embracing six persons, were found in the woods about two and a half miles

from Milltown; they live in wigwams or tepees and are without supplies of any kind, though aid has heretofore been extended them by charitable persons of Luck, a near-by town.

It is believed that only a small appropriation would be needed to carry these destitute families through the remaining part of the winter and spring and until they could maintain themselves.

It is accordingly recommended that Congress be asked to make an appropriation of not to exceed \$1,000 for the purpose of purchasing subsistence supplies for these Indians.

The rough field notes and all other papers in my possession relating to this matter are inclosed.

Cordially, yours,

W. M. WOOSTER,
Clerk and Special Disbursing Agent.

Final roll, St. Croix Chippewa, Wisconsin.

No.	Name.	Age.	Sex.	Band or tribe.	Residence.	County.
1	Taylor, Mary.....	47	F.	Four-fourths L. C. O....	Long Lake.....	Washburn.
2	Taylor, William.....	47	M.	One-half L. C. O.....	Cross Lake.....	Do.
3	Taylor, John.....	50	M.	do.....	do.....	Do.
4	Kenosha, John.....	70	M.	Four-fourths L. C. O. and Menominee.	Shell Lake.....	Do.
5	Voyer, Louise.....	42	F.	One-half L. C. O.....	do.....	Do.
6	Lonestar, John.....	42	M.	Four-fourths L. C. O.....	do.....	Do.
7	Laursen, Josephine.....	45	F.	One-half L. C. O.....	do.....	Do.
8	Kasabin, John.....	80	M.	Four-fourths L. C. O.....	Cumberland.....	Barron.
9	Kasabin, Jack.....	53	{Son, No. 8}	do.....	do.....	Do.
10	King, Maggie.....	51	F.	do.....	do.....	Do.
11	Coon, Henry.....	43	M.	do.....	Mud Lake.....	Washburn.
12	Arbuckle, Wm.....	50	M.	One-half L. C. O.....	do.....	Do.
13	Crego, Lizzie.....	47	F.	One-half F. D. L. and L. C. O.	Lake Nebagamon.	Douglas.
14	Mishler, John.....	64	M.	One-fourth L. C. O.....	Spooner.....	Washburn.
15	La Grew, Quanashee.....	66	F.	Four-fourths L. C. O.....	Clam Lake.....	Burnett.
16	La Grew, Mary.....	60	F.	One-half L. C. O.....	Shell Lake.....	Washburn.
17	Taylor, Heenan.....	53	M.	do.....	Clam Lake.....	Burnett.
18	Shenowaw, John.....	60	M.	Four-fourths L. C. O.....	Sand Lake.....	Barron.
19	Taylor, Winfield.....	43	M.	One-half L. C. O.....	Clam Lake.....	Burnett.
20	Bearheart, Mukkiday.....	67	M.	Four-fourths L. C. O.....	Rice Lake.....	Do.
21	Connor, Darius.....	42	M.	One-half F. D. L.....	Orange.....	Do.
22	Hart, George.....	44	M.	Four-fourths L. C. O.....	Sand Lake.....	Do.
23	Stone, Doc.....	102	M.	do.....	Fairview.....	Do.
24	Stone, Tom.....	65	Son.	do.....	do.....	Do.
25	Webster, Joe.....	57	M.	Three-fourths L. C. O.....	Danbury.....	Do.
26	Medweesh, George.....	48	M.	Four-fourths F. D. L.....	do.....	Do.
27	Medweesh, John.....	44	Bro.	do.....	do.....	Do.
28	Davis, Mary.....	51	F.	One-half L. C. O.....	do.....	Do.
29	Norris, Lucy.....	44	F.	do.....	do.....	Do.
30	Norris, Geo. K.....	46	Bro.	do.....	do.....	Do.
31	Norris, Charles.....	49	Bro.	do.....	Grantsburg.....	Do.
32	Songaday.....	85	M.	Four-fourths L. C. O.....	Danbury.....	Do.
33	Songaday, Martin.....	44	Son.	do.....	do.....	Do.
34	Songaday, James.....	42	Bro.	do.....	do.....	Do.
35	Kennabec, John.....	48	M.	do.....	do.....	Do.
36	Kennabec, Joe.....	45	Bro.	do.....	do.....	Do.
37	Medweesh, John.....	68	M.	do.....	do.....	Do.
38	Bimwaysaykwe, Mary.....	80	F.	do.....	do.....	Do.
39	Stanley, Maggie.....	44	F.	do.....	do.....	Do.
40	Madosheence.....	90	F.	do.....	do.....	Do.
41	Blackbird, John.....	49	Son.	One-half L. C. O.....	do.....	Do.
42	Medweesh, Mary Ann.....	58	F.	Four-fourths L. C. O.....	do.....	Do.
43	Medweesh, Bungo John.....	52	M.	One-half L. C. O.....	do.....	Do.
44	Oshogay.....	64	M.	Four-fourths L. C. O.....	Randall.....	Do.
45	Oshogay, Grover.....	44	Son.	do.....	do.....	Do.
46	Oshogay, Besh-kwe-we.....	42	Sis.	do.....	do.....	Do.
47	Boneash, Angelina.....	57	F.	do.....	Danbury.....	Do.
48	Bashkig.....	59	F.	do.....	do.....	Do.
49	She-osh.....	50	M.	do.....	do.....	Do.
50	Stuart, Josephine.....	42	F.	One-fourth L. C. O.....	Turtle Lake.....	Barron.
51	Murgaw, Charles.....	47	M.	Three-fourths L. C. O.....	St. Croix Falls.....	Polk.
52	Arbuckle, Mary.....	50	F.	Three-eighths Red Cliff and W. E.	Odanah.....	Ashland.
53	Arbuckle, Joseph.....	42	M.	Three-sixteenths Red Cliff and W. E.	Gordon.....	Douglas.
54	Bell, Joseph.....	55	M.	One-half L. C. O.....	do.....	Do.
55	Gimewun, Maggie.....	90	F.	Four-fourths F. D. L.....	Eau Claire Lakes.....	Bayfield.
56	McCarthy, George.....	56	Son.	One-half L. C. O.....	do.....	Do.
57	DeCarrow, Charles.....	50	M.	One-half F. D. L.....	do.....	Do.

Final roll, St. Croix Chippewa, Wisconsin—Continued.

No.	Name.	Age.	Sex.	Band or tribe.	Residence.	County.
58	Shioesh, John.....	58	M.	Four-fourths L. C. O....	Gordon.....	Douglas.
59	Miles, Philip D.....	42	M.	One-half Red Cliff.....	do.....	Do.
60	Mitchell, Joe.....	75	M.	One-half F. D. L.....	Eau Claire Lakes..	Bayfield.
61	Mealey, John.....	70	M.	Four-fourths L. C. O....	do.....	Do.
62	Livingstone, John.....	64	M.	Three-eighths Red Cliff.....	Solon Springs.....	Douglas.
63	Livingstone, Chas.....	46	M.	Eleven-sixteenths Red Cliff and F. D. L.....	Odanah.....	Ashland.
64	Foster, Lizzie.....	52	F.	One-fourth L. C. O....	Port Arthur.....	Rusk.
65	Baker, Henry.....	46	M.	One-half R. C. and L. C. O.....	Solon Springs.....	Douglas.
66	Buck John.....	42	M.	Four-fourths L. C. O....	Luck.....	Polk.
67	Buck, James.....	45	Bro.	do.....	do.....	Do.
68	Sawbik.....	65	M.	do.....	Round Lake.....	Do.
69	Rogers, John.....	42	M.	do.....	do.....	Do.
70	Wakemeup George.....	45	M.	do.....	do.....	Do.
71	Kaganocosit, or Gogen.....	75	F.	do.....	Balsam Lake.....	Do.
72	Hart, Joe.....	58	M.	do.....	do.....	Do.
73	Skwaon.....	65	F.	do.....	do.....	Do.
74	Hart, Ogemakwe.....	75	F.	do.....	Luck.....	Do.
75	Baptiste, Jim.....	44	M.	do.....	do.....	Do.
76	Hart, George.....	70	M.	do.....	Milltown.....	Do.
77	Hart, Charles.....	80	M.	do.....	do.....	Do.
78	Holmes, George.....	69	M.	One-half L. C. O....	Trade River.....	Do.
79	Wahbun.....	70	F.	Four-fourths L. C. O....	Round Lake.....	Do.
80	Wakemeup, Hattie.....	44	F.	One-half L. C. O....	Milltown.....	Do.
81	Betawash-a-no-kwe.....	60	F.	Four-fourths L. C. O....	Danbury.....	Burnett.
82	Hart, Jim.....	55	M.	do.....	Pine Lake.....	Polk.
83	Steen, Madeline.....	80	F.	One-half L. C. O....	Balsam Lake.....	Do.
84	Buldoe, Alec.....	56	Bro.	do.....	Frederic.....	Do.
85	Stone, Harriet.....	54	M.	do.....	Balsam Lake.....	Do.
86	McFagen, Mary.....	52	Sis.	do.....	do.....	Do.
No. 88						
87	Baptiste, Moyin.....	75	M.	Four-fourths L. C. O....	Frederic.....	Do.
88	Jack, John.....	43	M.	do.....	Grand View.....	Bayfield.
89	Holmes, Frank W.....	56	M.	One-half L. C. O....	Odanah.....	Ashland.
90	Tlyoah, George.....	50	M.	Four-fourths L. C. O....	do.....	Do.
91	Taylor, Frank R.....	45	M.	One-half L. C. O....	do.....	Do.
92	Stane, George.....	44	M.	do.....	do.....	Do.
93	Ratakin, Mary.....	65	F.	Four-fourths L. C. O....	Luck.....	Polk.
94	Pratt, Maud.....	42	F.	One-eighth L. C. O....	Appleton.....	Outagamia.
95	Bergen, Jim.....	42	M.	One-eighth F. D. L.....	Gordon.....	Douglas.

I also desire to submit for the information of the committee Exhibit C, which is a photographic copy of the treaty of September 13, 1854, with the Chippewa Nation, as follows:

EXHIBIT C.—TREATY WITH THE CHIPPEWAS, SEPTEMBER 30, 1854.

FRANKLIN PIERCE,

PRESIDENT OF THE UNITED STATES OF AMERICA.

To all and singular to whom these presents shall come, greetings:

Whereas a treaty was made and concluded at La Pointe, in the State of Wisconsin, on the 30th day of September, 1854, by Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head men, which treaty is in words following, to wit:

Articles of a treaty made and concluded at La Pointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head men.

ARTICLE 1. The Chippewas of Lake Superior hereby cede to the United States all the lands heretofore owned by them in common with the Chippewas of the Mississippi lying east of the following boundary line, to wit: Beginning at a point where the east branch of Snake River crosses the southern boundary line of the Chippewa country, running thence up the said branch to its source, thence nearly north in a straight line to the mouth of East Savannah River, thence up the St. Louis River to the mouth of East Swan River, thence up the

East Swan River to its source, thence in a straight line to the most western bend of Vermillion River, and thence down the Vermillion River to its mouth.

The Chippewas of the Mississippi hereby assent and agree to the foregoing session and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claim to the lands heretofore owned by them in common lying west of the above boundary line.

ART. 2. The United States agree to set apart and withhold from sale, for the use of the Chippewas of Lake Superior, the following described tracts of land viz:

First. For the L'Anse and Vieux De Sert Bands, all the unsold lands in the following townships in the State of Michigan: Township fifty-one north, range thirty-three west; township fifty-one north range thirty-two west; the east half of township fifty north range thirty-three west; the west half of township fifty north range thirty-two west, and all of township fifty-one north range thirty-one west, lying west of Huron Bay.

Second. For the La Pointe Band and such other Indians as may see fit to settle with them, a tract of land bounded as follows: Beginning on the south shore of Lake Superior, a few miles west of Montreal River, at the mouth of a creek called by the Indians Ke-che-se-be-we-she, running thence south to a line drawn east and west through the center of township forty-seven north, thence west to the west line of said township, thence south to the southeast corner of township forty-six north, range thirty-two west, thence west the width of two townships, thence north the width of two townships, thence west one mile, thence north to the lake shore, and thence along the lake shore, crossing Shag-waw-me-quon Point, to the place of beginning. Also two hundred acres on the northern extremity of Madeline Island, for a fishing ground.

Third. For the other Wisconsin Bands, a tract of land lying about Lac De Flambeau, and another tract on Lac Court Oreilles, each equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed under the direction of the President.

Fourth. For the Fond Du Lac Bands, a tract of land bounded as follows: Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-sco-me-me-tig running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of Savannah River, thence down the St. Louis River, to the place of beginning. And if said tract shall contain less than 100,000 acres, a strip of land shall be added on the south side thereof, large enough to equal such deficiency.

Fifth. For the Grand Portage Band, a tract of land bounded as follows: Beginning at a rock, a little east of the eastern extremity of Grand Portage Bay, running thence along the lake shore to the mouth of a small stream called by the Indians Maw-ske-gwaw-caw-maw-se-be, or Cranberry Marsh River, thence up said stream, across the point to Pigeon River, thence down Pigeon River to a point opposite the starting point, and thence across to the place of beginning.

Sixth. The Ontonagon Band and that subdivision of the La Pointe Band of which Buffalo is chief, may each select on or near the lake shore, four sections of land, under the direction of the President, the boundaries of which shall be defined hereafter. And being desirous to provide for some of his connections who have rendered his people important services, it is agreed that the Chief Buffalo may select one section of land, at such place in the ceded territory as he may see fit, which shall be reserved for that purpose and conveyed by the United States to such person or persons as he may direct.

Seventh. Each head of a family or single person over twenty-one years of age at the present time of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

ART. 3. The United States will define the boundaries of the reserved tracts, whenever it may be necessary, by actual survey, and the President may, from time to time, at his discretion, cause the whole to be surveyed, and may assign to each head of a family or single person over twenty-one years of age, eighty acres of land for his or their separate use; and he may, at his discretion, as fast as the occupants become capable of transacting their own affairs, issue patents therefor to such occupants, with such restrictions of the power of alienation as he may see fit to impose. And he may also, at his discretion, make rules and regulations respecting the disposition of the lands in case of the death of the head of a family, or single person occupying the same, or in case

of its abandonment by them. And he may also assign other lands in exchange for mineral lands, if any such are found in the tracts herein set apart. And he may also make such changes in the boundaries of such reserved tracts, or otherwise, as shall be necessary to prevent interference with any vested rights. All necessary roads, highways, and railroads, the lines of which may run through any of the reserved tracts, shall have the right of way through the same, compensation being made therefor as in other cases.

ART. 4. In consideration of and payment for the country hereby ceded the United States agree to pay to the Chippewas of Lake Superior, annually, for the term of twenty years, the following sums, to wit: Five thousand dollars in coin; eight thousand dollars in goods, household furniture, and cooking utensils; three thousand dollars in agricultural implements and cattle, carpenter's and other tools, and building materials; and three thousand dollars for moral and educational purposes, of which last sum, three hundred dollars per annum shall be paid to the Grand Portage Band, to enable them to maintain a school at their village. The United States will also pay the further sum of ninety thousand dollars, as the chiefs in open council may direct, to enable them to meet their present just engagements. Also the further sum of six thousand dollars, in agricultural implements, household furniture, and cooking utensils, to be distributed at the next annuity payment, among the mixed bloods of said nation. The United States will also furnish two hundred guns, one hundred rifles, five hundred beaver traps, three hundred dollars' worth of ammunition, and one thousand dollars' worth of ready-made clothing, to be distributed among the young men of the nation, at the next annuity payment.

ART. 5. The United States will also furnish a blacksmith and assistant, with the usual amount of stock, during the continuance of the annuity payments, and as much longer as the President may think proper, at each of the points herein set apart for the residence of the Indians, the same to be in lieu of all the employees to which the Chippewas of Lake Superior may be entitled under previous existing treaties.

ART. 6. The annuities of the Indians shall not be taken to pay the debts of individuals, but satisfaction for depredations committed by them shall be made by them in such manner as the President may direct.

ART. 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited in the territory hereby ceded, until otherwise ordered by the President.

ART. 8. It is agreed, between the Chippewas of Lake Superior and the Chippewas of the Mississippi, that the former shall be entitled to two-thirds, and the latter to one-third of all the benefits to be derived from former treaties existing prior to the year 1847.

ART. 9. The United States agrees that an examination shall be made, and all sums that may be found equitably due to the Indians for arrearages of annuity or other thing under the provisions of former treaties, shall be paid as the chiefs may direct.

ART. 10. All missionaries, and teachers, and other persons of full age, residing in the territory hereby ceded, or upon any of the reservations hereby made by authority of law, shall be allowed to enter the land occupied by them at the minimum price whenever the surveys shall be completed, to the amount of one-quarter section each.

ART. 11. All annuity payments to the Chippewas of Lake Superior shall hereafter be made at L'Anse, La Pointe, Grand Portage, and on the St. Louis River; and the Indians shall not be required to remove from the homes hereby set apart for them. And such of them as reside in the territory hereby ceded shall have the right to hunt and fish therein until otherwise ordered by the President.

ART. 12. In consideration of the poverty of the Bois Forte Indians who are parties to this treaty, they having never received any annuity payments, and of the great extent of that part of the ceded country owned exclusively by them, the following additional stipulations are made for their benefit: The United States will pay the sum of ten thousand dollars as their chiefs in open council may direct, to enable them to meet their present just engagements. Also the further sum of ten thousand dollars, in five equal annual payments, in blankets, cloth, nets, guns, ammunition, and such other articles of necessity as they may require.

They shall have the right to select their reservation at any time hereafter, under the direction of the President; and the same may be equal in extent

in proportion to their numbers to those allowed the other bands, and be subject to the same provisions.

They shall be allowed a blacksmith and the usual smithshop supplies, and also two persons to instruct them in farming, whenever in the opinion of the President it shall be proper, and for such length of time as he shall direct.

It is understood that all Indians who are parties to this treaty, except the Chippewas of the Mississippi, shall hereafter be known as the Chippewas of Lake Superior: *Provided*, That the stipulation by which the Chippewas of Lake Superior, relinquishing their right to land west of the boundary line, shall not apply to the Bois Forte Band, who are parties to this treaty.

ART. 13. This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Henry C. Gilbert and the said David B. Herriman, commissioners as aforesaid, and the undersigned chiefs and headmen of the Chippewas of Lake Superior and the Mississippi, have hereunto set their hands and seals, at the place aforesaid, this thirtieth day of September, one thousand eight hundred and fifty-four.

HENRY C. GILBERT,
DAVID B. HERRIMAN,
Commissioners.

RICHARD M. SMITH, *Secretary.*

La Pointe Band:

Ke-Che-Waish-Ke, or the Buffalo, 1st chief (his x mark). [L. S.]

Chay-Che-Que-Oh, 2d chief (his x mark). [L. S.]

A-Daw-We-Ge-Zhick, or Each Side of the Sky, 2d chief (his x mark). [L. S.]

O-Ske-Naw-Way, or the Youth, 2d chief (his x mark). [L. S.]

Maw-Caw-Day-Pe-Nay-Se, or the Black Bird, 2d chief (his x mark). [L. S.]

Naw-Waw-Naw-Quot, headman (his x mark). [L. S.]

Ke-Wain-Zeence, headman (his x mark). [L. S.]

Waw-Baw-Ne-Me-Ke, or the White Thunder, 2d chief (his x mark). [L. S.]

Pay-Baw-Me-Say, or the Soarer, 2d chief (his x mark). [L. S.]

Naw-Waw-Ge-Waw-Nose, or the Little Current, 2d chief (his x mark). [L. S.]

Maw-Caw-Day-Waw-Quot, or the Black Cloud, 2d chief (his x mark). [L. S.]

Me-She-Naw-Way, or the Disciple, 2d chief (his x mark). [L. S.]

Key-Me-Waw-Naw-Um, headman (his x mark). [L. S.]

She-Gog, headman (his x mark). [L. S.]

Ontonagon Band:

O-Cun-De-Cun, or the Buoy, 1st chief (his x mark). [L. S.]

Waw-Say-Ge-Zhick, or the clear Sky, 2d chief (his x mark). [L. S.]

Keesh-Ke-Taw-Wug, headman (his x mark). [L. S.]

L'Anse Band:

David King, 1st chief (his x mark). [L. S.]

John Southwind, headman (his x mark). [L. S.]

Peter Marksman, headman (his x mark). [L. S.]

Na-Taw-Me-Ge-Zhick, or the First Sky, 2d chief (his x mark). [L. S.]

Aw-Se-Neece, headman (his x mark). [L. S.]

Vieux-De-Sert Band:

May-Dway-Aw-She, 1st chief (his x mark). [L. S.]

Posh-Quay-Gin, or the Leather, 2d chief (his x mark). [L. S.]

Grand Portage Band:

Shaw-Gaw-Naw-Sheence, or the Little Englishman, 1st chief (his x mark). [L. S.]

May-Mosh-Caw-Wash, headman (his x mark). [L. S.]

Aw-De-Konse, or the Little Reindeer, 2d chief (his x mark). [L. S.]

Way-We-Ge-Wam, headman (his x mark). [L. S.]

Fond Du Lac Band:

Shing-Goope, or the Balsom, 1st chief (his x mark). [L. S.]

Mawn-Go-Sit, or the Loon's Foot, 2d chief (his x mark). [L. S.]

May-Quaw-Me-We-Ge-Zhick, headman (his x mark). [L. S.]

Keesh-Kawk, headman (his x mark). [L. S.]

Caw-Taw-Waw-Be-Day, headman (his x mark). [L. S.]

O-Saw-Gee, headman (his x mark). [L. S.]

Ke-Che-Aw-Ke-Wain-Ze, headman (his x mark). [L. S.]

Fond Du Lac Band—Continued.

Naw-Gaw-Nub, or the Foremost Sitter, 2d chief (his x mark). [L. S.]
 Ain-Ne-Maw-Sung, 2d chief (his x mark). [L. S.]
 Naw-Aw-Bun-Way, headman (his x mark). [L. S.]
 Wain-Ge-Maw-Tub, headman (his x mark). [L. S.]
 Aw-Ke-Wain-Zeence, headman (his x mark). [L. S.]
 Shay-Way-Be-Nay-Se, headman (his x mark). [L. S.]
 Paw-Pe-Oh, headman (his x mark). [L. S.]

Lac Court Orellle Band:

Aw-Ke-Wain-Zem, or the Old Man, 1st chief (his x mark). [L. S.]
 Kay-No-Zhance, or the Little Jack Fish, 1st chief (his x mark). [L. S.]
 Kay-Che-Pe-Nay-Se, or the Big Bird, 2d chief (his x mark). [L. S.]
 Ke-Che-Waw-Re-Shay-She, or the Big Martin, 2d chief (his x mark). [L. S.]
 Waw-Be-Shay-Sheence, headman (his x mark). [L. S.]
 Quay-Quay-Cub, headman (his x mark). [L. S.]
 Shaw-Waw-No-Mc-Tay, headman (his x mark). [L. S.]
 Nay-Naw-Ong-Gay-Be, or the Dressing Bird, 1st chief (his x mark). [L. S.]
 O-Zhaw-Waw-Sco-Ge-Zhick, or the Blue Sky, 2d chief (his x mark). [L. S.]
 I-Yaw-Banse, or the Little Bird, 2d chief (his x mark). [L. S.]
 Ke-Che-E-Nin-Ne, headman (his x mark). [L. S.]
 Haw-Daw-Gaw-Me, headman (his x mark). [L. S.]
 Way-Me-Te-Go-She, headman (his x mark). [L. S.]
 Pay-Me-Ge-Wung, headman (his x mark). [L. S.]

Lac Du Flambeau Band:

Aw-Mo-Se, or The Wasp, 1st chief (his x mark). [L. S.]
 Ke-Nish-Te-No, 2d chief (his x mark). [L. S.]
 Me-Gee-See, or the Eagle, 2d chief (his x mark). [L. S.]
 Kay-Kay-Go-Gwaw-Nay-Aw-She, headman (his x mark). [L. S.]
 O-Che-Chog, headman (his x mark). [L. S.]
 Nay-She-Kay-Gwaw-Nay-Be, headman (his x mark). [L. S.]
 O-Skaw-Bay-Wis, or the Walter, 1st chief (his x mark). [L. S.]
 Que-We-Zance, or the White Fish, 2d chief (his x mark). [L. S.]
 Ne-Gig, or the Otter, 2d chief (his x mark). [L. S.]
 Nay-Waw-Che-Ge-Ghick-May-Be, headman (his x mark). [L. S.]
 Quay-Quay-Ke-Cah, headman (his x mark). [L. S.]

Bois Forte Band:

Kay-Baish-Caw-Daw-Way, or Clear Round the Prairie, 1st chief (his x mark). [L. S.]
 Way-Zaw-We-Ge-Zhick-Way-Sking, headman (his x mark). [L. S.]
 O-Saw-We-Pe-Nay-She, headman (his x mark). [L. S.]

The Mississipi Bands:

Que-We-San-Se, or Hole in the Day, head chief (his x mark). [L. S.]
 Caw-Nawn-Daw-Waw-Win-Zo, or the Berry Hunter, 1st chief (his x mark). [L. S.]
 Waw-Bow-Jieg, or the White Fisher, 2d chief (his x mark). [L. S.]
 Ot-Taw-Waw, 2d chief (his x mark). [L. S.]
 Que-We-Zhan-Cis, or the Bad Boy, 2d chief (his x mark). [L. S.]
 Bye-A-Jick, or the Lone Man, 2d chief (his x mark). [L. S.]
 I-Yaw-Shaw-Way-Ge-Zhick, or the Crossing Sky, 2d chief (his x mark). [L. S.]
 May-Caw-Day, or the Bear's Heart, 2d chief (his x mark). [L. S.]
 Ke-Way-De-No-Go-Nay-Be, or the Northern Feather, 2d chief (his x mark). [L. S.]
 Me-Squaw-Dace, headman (his x mark). [L. S.]
 Naw-Gaw-Ne-Gaw-Bo, headman (his x mark). [L. S.]
 Wawm-Be-De-Yea, headman (his x mark). [L. S.]
 Waihs-Key, headman (his x mark). [L. S.]
 Caw-Way-Caw-Me-Ge-Skung, headman (his x mark). [L. S.]
 May-Yaw-Ge-Way-We-Dunk, or the One Who Carries the Voice, 2d chief (his x mark). [L. S.]

Interpreters: John F. Godfroy, Geo. Johnston, S. A. Marvin, Louis Godot, Paul H. Beaulieu, Henry Blatchford, Peter Floy.

Executed in the presence of—Henry M. Rice, J. W. Lynde, G. D. Williams, B. H. Connor, E. W. Muldough, Richard Godfroy, D. S. Cash, H. H. McCullough, E. Smith Lee, Wm. E. Vantassel, L. H. Wheeler.

And whereas the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the tenth day of January, eighteen hundred and fifty-five, ratify the same by a resolution in the words and figures following, to wit:

"IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES.

"January 10, 1855.

"Resolved (two thirds of the Senators present concurring), That the Senate advise and consent to the ratification of the articles of a treaty made and concluded at La Pointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head men, on the thirtieth day of September, one thousand eight hundred and fifty-four.

"Attest:

"ASBURY DICKINS, *Secretary.*"

Now, therefore, be it known that I, Franklin Pierce, President of the United States of America, do, in pursuance of the advice and consent of the Senate as expressed in their resolution of the tenth of January, eighteen hundred and fifty-five, accept, ratify, and confirm the said treaty.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington, this twenty-ninth day of January, one thousand eight hundred and fifty-five.

[L. S.]

FRANKLIN PIERCE.

By the President:

W. L. MARCY, *Secretary of State.*

Mr. NELSON. Mr. Chairman, the matter is so fully covered by the reports contained in exhibits A, B, and C that the only thing I wish to add in connection with it is that Senate bill 4499 was favorably recommended by the Committee on Indian Affairs of the Senate and incorporated by the Senate in the appropriation bill, S. 2480, Sixty-sixth Congress, first session, and it is to be found on pages 72, 73, 74, and 75 of that bill, as reported. In connection with that reported bill, I desire to insert here the report of the committee and the letter from Secretary Lane, of the Interior Department, which fully explains the bill now pending before your committee for consideration.

The matter referred to is as follows:

ST. CROIX CHIPPEWA INDIANS.

The bill (S. 4699) for the relief of the St. Croix Chippewa Indians of Wisconsin was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and insert:

"That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000, to be expended under the supervision of the Commissioner of Indian Affairs in the purchase of subsistence supplies in relieving cases of actual distress and suffering among those needy St. Croix Indians of Wisconsin whose cases are referred to in report of January 13, 1915, transmitted by the Secretary of the Interior to the House of Representatives March 3, 1915, pursuant to the provisions of the act of Congress of August 1, 1914 (38 Stats. L., pp. 582-605), and printed as House Document No. 1663, Sixty-third Congress, third session.

"Sec. 2. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$141,000, in full settlement of the claims against the United States of the St. Croix Chippewa Indians of Wisconsin whose names appear upon the final roll prepared by the Secretary of the Interior pursuant to the said act of August 1, 1914, and which final roll is contained in the said report of the Secretary of the Interior, March 3, 1915, and in said House Document No. 1663.

"Sec. 3. That the Secretary of the Interior is hereby authorized and directed to distribute said fund of \$141,000 per capita among said Indians appearing

upon said final roll, or, in his discretion, the per capita share of each of said Indians may be credited to him and expended by said Secretary for his benefit in such manner, including the purchase of land, as he may deem proper: *Provided*, That no part of the funds hereby appropriated shall be paid to any person or persons as attorney's fees: *Provided further*, That where any of said enrolled Indians have died since enrollment the Secretary shall ascertain and pay their pro rata shares to their proper distributees, under such rules and regulations as he may prescribe: *And provided further*, That one-half of said sum shall be expended in the purchase of land in northern Wisconsin for agricultural purposes, such land to be allotted to said St. Croix Chippewa Indians, each Indian to receive land to the value of one-half of his distributive share in the fund appropriated by this act, patents therefor to be issued in accordance with the general allotment laws of the United States. The land so selected shall be situated in organized school districts, and not be purchased in bodies of more than one section, and said bodies shall not adjoin each other. Such land shall be selected by an agent of the Indian Office familiar with lands in northern Wisconsin and an agent to be selected by said St. Croix Chippewa Indians. If these two disagree as to the value or desirability of any particular tract of land, they shall agree upon a third person, who shall act with the two agents aforesaid in determining such matter of disagreement. No land shall be purchased hereunder unless and until the purchasing agents, together with said third person so selected, shall in person go upon each tract so purchased.

"Sec. 4. That the Secretary of the Interior is hereby authorized and directed to strike from said final roll the name of Maggie Staples, No. 39 thereof, and also strike therefrom the name or names of any other Indians who shall hereafter be found to have received an allotment of land on any Indian reservation: *Provided*, That no part of the money hereby appropriated shall be paid to any of the persons whose names shall be stricken from the final roll by the Secretary of the Interior."

The report is as follows:

"Mr. La Follette: from the Committee on Indian Affairs, submitted the following report:

"The Committee on Indian Affairs, to who was referred S. 4699, for the relief of the St. Croix Chippewa Indians of Wisconsin, having considered the same, report thereon with an amendment in the form of a substitute, with the recommendation that when so amended the bill do pass.

"By an act of Congress approved August 1, 1914, the Secretary of the Interior was directed to cause an investigation to be made of the condition and tribal rights of the so-called St. Croix Chippewa Indians residing in northern Wisconsin. Among other things he was required to ascertain what tribal rights, if any, they had with any band or tribe of Indians residing in either Wisconsin or Minnesota, and what benefits in land or money they would have received had they removed to a reservation or had not been excluded from enrollment and allotment with the Chippewa Indians of Minnesota under the provisions of the act approved January 14, 1889. The Secretary was further directed to cause a census and enrollment of said Indians with recommendations for their relief as he might deem necessary.

"On March 3, 1915, the Secretary made his final report to Congress as directed (Doc. No. 1683, 63d Cong., 3d sess.). In this report 95 Indians were found to be entitled to benefits from the Government under the treaty of September 30, 1854, and that they would be entitled to between \$1,000 and \$1,500 each.

"This bill is for the purpose of carrying out the recommendations of the Secretary of the Interior.

"In a report upon a bill introduced in the House of Representatives upon this same subject the Secretary states:

"In further explanation of the failure of these Indians to remove to their respective reservations following the treaty, *supra*, I learn from the Commissioner of Indian Affairs that some of the subchiefs and many members of the band of Chief Buck did not understand that the present Lac Courte Oreille Indian Reservation established by said treaty was to be their future home; that they believed the lands embracing the waters of the St. Croix and Yellow Rivers were to be set aside for them as their home and hunting grounds; and that they never ceded or relinquished such country to the United States. I am also advised that the Indians themselves understood that there were not sufficient lands on the Lac Courte Oreille Reservation to provide for them should they have removed thereto, nor could they have made a living in such event."

"This bill was referred to the Secretary of the Interior for report, and his report is as follows:

"DEPARTMENT OF THE INTERIOR,

"Washington, December 21, 1918.

"MY DEAR SENATOR: I am in receipt of your reference of November 25, 1918, for report on a copy of S. 4699 'for the relief of the St. Croix Chippewa Indians of Wisconsin.'

"The bill provides for an appropriation of \$9,500 for the immediate relief of these Indians named upon the final roll prepared by the Secretary of the Interior, under the act of Congress of August 1, 1914 (38 Stat. L., 582, 605), and for an additional appropriation of \$142,500 to be paid to or expended for the benefit of the said enrolled Indians. The bill further provides, in effect, that the Secretary of the Interior shall pay to any attorney or attorneys who may now represent or may have heretofore represented the said Indians a sum not exceeding 5 per cent of the amount so appropriated.

"On January 24, 1916, I had the honor to report to the chairman of the Committee on Indian Affairs of the House of Representatives on H. R. 5774, for the relief of these Indians, which bill carried an item of but \$125,000. It was said therein after setting out the merits of the claim that 1 of the 95 enrolled persons (No. 39, Maggie Staples) was found to have received an allotment of land and was not entitled to further benefits from the Government; and that another enrolled Indian (No. 81, Bet-to-wash-a-no-quah) was charged with having received an allotment with the Chippewas of the Lac Courte Oreille Reservation, Wis. It was accordingly recommended therein that the bill be so amended as to authorize the Secretary to strike from the final roll the name of Maggie Staples and also drop therefrom the names of any other Indians who should hereafter be found to have received allotments of land on any Indian reservation; and further, that no part of the money appropriated should be paid to any of the persons whose names were stricken from the said final roll.

"With the letter of March 3, 1915, I transmitted to Congress a copy of the report dated January 13, 1915, from the official who investigated the conditions among these Indians (H. Doc. No. 1663, 63d Cong., 3d sess.), from which it clearly appears that they are in the main doing fairly well as farmers, etc., and that there are a few needy cases among them—those living in the woods in tepees or wigwams and subsisting mainly on roots and muskrats.

"It was suggested in the report mentioned that an appropriation of not to exceed \$1,000 would be sufficient to purchase subsistence supplies to prevent suffering in these few instances. Further, it was shown in that report that these Indians who were placed on the roll as entitled to benefits should each be paid from \$1,000 to \$1,500 for allotments of land to which they would have been entitled under the provisions of the Chippewa treaty of September 30, 1854 (10 Stat. L., 1109), had they removed to their respective reservations. Should the maximum sum of \$1,500 be allowed for 94 persons so found entitled it would aggregate \$141,000. This would make the total to be appropriated by the bill, should the \$1,000 for immediate relief be granted, but \$142,000 instead of \$143,000 carried by the present bill.

"I have no information as to any attorneys having rendered services to these Indians. In fact, the records show that the investigation into their status and the enrollment were made in accordance with the act of August 1, 1914 (38 Stat. L., 582-605), by an official from the Indian Bureau without the aid of any attorneys whatsoever.

"It is accordingly recommended that the bill be amended as follows:

"Page 1, line 4, strike out all after the word 'of' to the end of the page and insert in lieu thereof the following:

"One thousand dollars to be expended under the supervision of the Commissioner of Indian Affairs in the purchase of subsistence supplies in relieving cases of actual distress and suffering among those needy St. Croix Chippewa Indians of Wisconsin whose cases are referred to in report of January 13, 1915, transmitted by the Secretary of the Interior to the House of Representatives March 3, 1915, pursuant to the provisions of the act of Congress of August 1, 1914 (Thirty-eighth Statutes at Large, 582, 605), and printed as House Document Numbered 1663, Sixty-third Congress, third session."

"Page 2, strike out all of sections 2, 3, and 4 to the end of bill and insert in lieu thereof the following:

"SEC. 2. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$141,000 in full settlement of the claims against the United States of the St. Croix Chippewa Indians of Wisconsin."

sin whose names appear upon the final roll prepared by the Secretary of the Interior pursuant to the said act of August 1, 1914, and which final roll is contained in the said report of the Secretary of the Interior, March 3, 1915, and in said House Document Numbered 1663.

"**SEC. 3.** That the Secretary of the Interior is hereby authorized and directed to distribute said fund of \$141,000 per capita among said Indians appearing upon said final roll, or, in his discretion, the per capita share of each said Indian may be credited to him and expended by said Secretary for his benefit in such manner, including the purchase of land, as he may deem proper: *Provided*, That no part of the funds hereby appropriated shall be paid to any persons as attorney's fees: *And provided further*, That where any of said enrolled Indians have died since enrollment the Secretary shall ascertain and pay their pro rata shares to their proper distributees under such rules and regulations as he may prescribe.

"**SEC. 4.** That the Secretary of the Interior is hereby authorized and directed to strike from the said final roll the name of Maggie Staples, No. 39 thereof, and also to strike therefrom the name or names of any other Indians who shall hereafter be found to have received an allotment of land on any Indian reservation: *Provided*, That no part of the money hereby appropriated shall be paid to any of the persons whose names shall be so stricken from the final roll by the Secretary of the Interior."

"Should the bill be amended as suggested I would recommend that it be enacted.

"Cordially yours,

"FRANKLIN K. LANE, *Secretary.*

"HON. HENRY F. ASHURST,

"*Chairman Committee on Indian Affairs, United States Senate.*"

The substitute bill is that favorably recommended by the Secretary of the Interior, except the last proviso of section 3, which is added by the committee to insure that a portion of the funds shall be used for the purchase of lands for the benefit of said Indians.

Mr. NELSON. In the conference report on June 9, 1919, of the Indian appropriation bill, the Senate agreed to recede from the amendments numbered 36, 37, and 38, with the understanding, as I am reliably informed, that this matter would be taken up by the House Committee on Indian Affairs for final settlement at some later convenient date.

In conclusion I wish to make the following general statement in support of the pending bill before your committee: first, that the appropriation asked for is simply a matter of clear justice to the Indians whose names appear on the roll made by the department, acting under the authority of Congress; and that the appropriation should be made as requested in order that the allotment that rightfully belongs to them under the treaty referred to in Exhibit C could not be adjusted by proper legislative enactment by Congress; second, I believe that in view of the very careful investigation of this matter that has been made by the Bureau of Indian Affairs in the Department of the Interior, Congress should no longer hesitate to provide this proper and necessary legislation in order that due justice might be rendered to the Indians designated on the roll, so that either 80 acres of land or its equivalent in value, or \$1,500, might be duly distributed to these Indians.

I believe that there should be no hesitancy on the part of the committee to favorably report this bill in the form in which it now is before you, because it has the indorsement and the recommendation of the Bureau of Indian Affairs and of the Department of the Interior, and has already twice been passed by the Senate Committee on Indian Affairs. It would seem to me, therefore, that it would be perfectly proper and be in the best of order and in

perfect harmony with justice that the committee promptly report this bill to the House for passage in order that relief for these worthy and needy members of the Saint Croix Indians of Wisconsin may be obtained. With this statement and with the complete data that I have referred to, I earnestly urge and ask that you give the matter of this bill your immediate consideration and favorable report.

Mr. ELSTON. Mr. Nelson, who prepared the form of the bill that you have introduced?

Mr. NELSON. The present form of the bill as introduced by me is an exact copy of the bill passed in the Senate, as it was approved and corrected by Secretary Lane, of the Interior Department, in a letter to the chairman of the committee on Indian Affairs of the Senate.

Mr. ELSTON. I understood you to say that this bill, H. R. 2264, in the identical form in which it was introduced by you, was twice favorably acted upon by the Senate.

Mr. NELSON. Yes, sir.

Mr. ELSTON. Do you know who introduced the two bills which passed the Senate?

Mr. NELSON. As I remember, Senator Lenroot introduced both bills.

Mr. ELSTON. In view of the fullness of your statement, Mr. Nelson, and the many exhibits to which you here refer, I believe that, when printed, they will afford the committee all of the data it desires to make proper decision on this bill. I think there is nothing further required now. We will wait until the hearings on this bill are printed, and will then try to come to a conclusion as quickly as possible.

(Thereupon, the subcommittee adjourned.)

INDIAN TRIBES OF MONTANA

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

NOVEMBER 5, 1919.

COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

HOMER P. SNYDER, New York, *Chairman*.

PHILIP P. CAMPBELL, Kansas.

ROYAL C. JOHNSON, South Dakota.

JOHN A. ELSTON, California.

FREDERICK W. DALLINGER, Massachusetts.

BENIGNO C. HERNANDEZ, New Mexico.

MARION E. RHODES, Missouri.

JAMES H. SINCLAIR, North Dakota.

CLIFFORD E. RANDALL, Wisconsin.

ALBERT W. JEFFERIS, Nebraska.

CLINT COLE, Ohio.

JOHN REBER, Pennsylvania.

M. CLYDE KELLY, Pennsylvania.

CHARLES D. CARTER, Oklahoma.

CARL HAYDEN, Arizona.

WILLIAM J. SEARS, Florida.

JOHN N. TILLMAN, Arkansas.

HARRY L. GANDY, South Dakota.

WILLIAM W. HASTINGS, Oklahoma.

ZEBULON B. WEAVER, North Carolina.

RICHARD F. MCKINIRY, New York.



WASHINGTON
GOVERNMENT PRINTING OFFICE

1919

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INDIAN TRIBES OF MONTANA.

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, Wednesday, November 5, 1919.

The subcommittee met at 10.15 o'clock, Hon. Marion E. Rhodes (chairman) presiding.

There were also present Representatives Elston, Hernandez, Kelly, Hayden, and Hastings.

FORT PECK RESERVATION.

Mr. RHODES. Gentlemen, preliminary to the consideration of House joint resolution 227, I will read this letter. When the question first came up it was thought possibly the information called for in the letter written by Mr. Synder to the Secretary of the Interior October 31, 1919, would obviate the necessity for the further consideration of the resolution at this time. (H. J. Res. 227:)

OCTOBER 31, 1919.

The honorable the SECRETARY OF THE INTERIOR,
Washington, D. C.

MY DEAR SIR: I inclose you herewith copy of House joint resolution 227, in which it is recommended that certain lands on the Fort Peck Indian Reservation be opened to entry and sale, payments to be made with interest annually for a certain number of years, and that an appropriation should be made out of any money in the Treasury not otherwise appropriated, for the sum of \$2,720,670.63, as reimbursable advance payment to the Indians for the purchase price by the homesteaders of these lands.

I am writing to ask if you have not the authority to extend the payments on these particular lands for one year, and if you have that power, it will obviate the necessity of any action on the resolution by this committee at this time.

Thanking you for your attention, and with great respect, I beg to remain,
Very truly, yours,

HOMER P. SNYDER.

STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Inasmuch as that is a legislative matter and a report is pending before the department, we would in replying to it prepare the letter for the signature of the Secretary, and I will see that the reply is made to the committee at a very early date.

Mr. RHODES. Then what does the subcommittee say with regard to the further consideration of this resolution this morning? Shall we postpone it pending the reply?

Mr. HASTINGS. I think we ought to postpone it.

Mr. RHODES. I feel that the committee is inclined to do that unless Mr. Riddick has some special reasons to assign.

Mr. RIDDICK. My only reason is that I am leaving for Montana to-morrow and I know I will be importuned with questions as to what has been done in the matter. Permit me to say that a delegation was here from Montana and we went and saw Mr. Lane and he called Mr. Sells in and it was agreed among everybody interested that this resolution would be put in and Mr. Sells and Mr. Lane both gave their approval to this measure. When the measure came before the committee the committee were reluctant to recommend that money be advanced to the Indians, thinking that there was some other provision in existing law to take care of the proposition.

Mr. HASTINGS. It was suggested that perhaps the department had authority as it did in Oklahoma to extend the time within which these payments could be made by an order rather than by legislation.

Mr. MERITT. I will have that matter very carefully investigated by the office and get a report to the committee at an early date.

Mr. RHODES. If there is no objection, then, further consideration of this resolution at this time will be postponed.

Mr. HASTINGS. Subject to the call of the chairman of the subcommittee.

RELIEF OF FLATHEAD INDIANS.

Mr. RHODES. Next for consideration is Senate 2454, for the relief of certain members of the Flathead Indians.

Mr. HAYDEN. I suggest that the bill be inserted at this point in the record.

(The bill referred to is as follows:)

[S. 2454, Sixty-sixth Congress, first session.]

AN ACT For the relief of certain members of the Flathead Nation of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period of one year from and after the approval of this act the Secretary of the Interior is hereby authorized, under existing law and under such rules and regulations as he may prescribe, to make allotments on the Flathead Reservation, Montana, to all unallotted, living children enrolled with the tribe, enrolled or entitled to enrollment: *Provided,* That such allotments be made from any unallotted or unsold lands within the original limits of the Flathead Indian Reservation, including the area now classified and reserved as timber lands, cut-over lands, burned or barren lands thereon; and patents for allotments hereunder for any lands from which such timber has not been cut and marketed, shall contain a clause reserving to the United States the right to cut and market, for the tribal benefit, as now authorized by law, the merchantable timber on the lands so allotted: *Provided further,* That when the merchantable timber has been cut from any lands allotted hereunder, the title to such timber as remains on such lands will thereupon pass to the respective allottees, and the Secretary of the Interior is hereby directed to withhold from sale or entry all lands unsold and unentered within the said reservation at the date of the passage of this act until allotments hereunder have been completed. All acts or parts of acts inconsistent herewith are hereby repealed.

Mr. RIDDICK. It is substantially the same as the matter we have just been talking about.

Mr. MERITT. No; it is an entirely different matter. The department sees no objection to this bill, and we would be glad to have it

enacted by Congress. There is a report to the Senate committee on this bill, and the report is in the printed hearings of that committee.

Mr. RHODES. I will read the report.

(The report referred to is as follows:)

[Senate. Report No. 218. Sixty-sixth Congress, first session.]

The Committee on Indian Affairs, to whom was referred the bill (S. 2454) for the relief of certain members of the Flathead Nation of Indians, and for other purposes, having considered the same, report favorably thereon with an amendment, and as amended recommend that the bill do pass.

Your committee recommends to strike out all after the enacting clause and insert the following:

"That during the period of one year from and after the approval of this act the Secretary of the Interior is hereby authorized, under existing law and under such rules and regulations as he may prescribe, to make allotments on the Flathead Reservation, Mont., to all unallotted living children enrolled with the tribe, enrolled or entitled to enrollment: *Provided*, That such allotments be made from any unallotted or unsold lands within the original limits of the Flathead Indian Reservation, including the area now classified and reserved as timberlands, cut-over lands, burned or barren lands thereon; and patents issued for allotments hereunder for any lands from which such timber has not been cut and marketed shall contain a clause reserving to the United States the right to cut and market, for the tribal benefit, as now authorized by law, the merchantable timber on the lands so allotted: *Provided further*, That when the merchantable timber has been cut from any lands allotted hereunder, the title to such timber as remains on such lands will thereupon pass to the respective allottees, and the Secretary of the Interior is hereby directed to withhold from sale or entry all lands unsold and unentered within the said reservation at the date of the passage of this act until allotments hereunder have been completed. All acts or parts of acts inconsistent herewith are hereby repealed."

The object of this bill is to postpone for one year the act of April 23, 1904, so that allotments may be made to all unallotted living children and other unallotted members of the tribe who have received no allotments. There are about 600 unallotted children that could be provided for from the undisposed timberlands and other tracts. The original timber area reserved under the act of April 23, 1904, was about 200,000 acres. Some of the land has been disposed of under the homestead laws at the appraised value after reclassification as agriculture lands. The department has sold the timber on approximately 25,000 acres of land. Under the provisions of this bill the allotments are to be made from any unallotted or unsold land within the original limits of the Flathead Indian Reservation, including the area now classified and reserved as timberlands, cut-over lands, burned or barren lands thereon; and patents issued for allotments hereunder for any lands from which such timber has not been cut and marketed shall contain a clause reserving to the United States the right to cut and market, for the tribal benefit, as now authorized by law, the merchantable timber on the lands so allotted. It is also provided that when the merchantable timber has been cut from any lands allotted hereunder, the title to such timber as remains on such lands will thereupon pass to the respective allottees. In view of the fact that there are about 600 children who have not received allotments, your committee thinks it advisable that they be allotted from those reserved and undisposed of lands.

Mr. HASTINGS. What is the date down to which the enrollment of these children has been brought?

Mr. MERITT. January 24, 1908.

Mr. HASTINGS. Has the roll been completed and approved?

Mr. MERITT. The allotments were closed upon the reservation upon that date.

Mr. HASTINGS. You had the right under existing law to do that?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. And you need no additional legislation to authorize you to close the rolls of the tribe?

Mr. MERITT. No, sir.

Mr. HASTINGS. They can not be reopened except by legislation.

Mr. MERITT. That is true.

Mr. HASTINGS. How about Indian children who were placed upon this roll and subsequently died? Would it go to their heirs?

Mr. MERITT. Do you mean those Indians who were placed on the rolls subsequent to the closing of the rolls?

Mr. HASTINGS. Yes; up to January 24, 1908. You closed the rolls at that time. Then you made a roll of these 600 children, as I understand.

Mr. MERITT. Yes.

Mr. HASTINGS. Now, suppose before the allotments and before the passage of this act or after the passage of this act and before the allotment, some one of the 600 died, would allotments be made to the heirs?

Mr. MERITT. No, sir.

Mr. HASTINGS. Is your legislation clear upon that?

Mr. MERITT. That is the practice of the department where legislation passes authorizing allotments; we do not make allotments to the deceased children, but, of course, if the deceased child is given an allotment the land would then descend to the heirs of that child.

Mr. HASTINGS. Providing it is living when the allotment is made?

Mr. MERITT. Yes.

Mr. HASTINGS. Do we say living allottees or living children in this act?

Mr. HAYDEN. On line 7, page 1, the bill says, "living children enrolled with the tribe."

Mr. HASTINGS. That clears it up. The next question is with reference to line 2, after you have allotted this land to one of these children, why should not the proceeds of that merchantable timber go to the child instead of to the tribe?

Mr. MERITT. Because some of that land is very valuable on account of its timber, and if we permitted the Indian allottee to take the timber as well as the land they would get a very much more valuable allotment than other Indians. On some of the reservations a 160-acre tract of timber is worth \$15,000, and more in some cases, and it is for the purpose of equalizing the value of the allotments that we have suggested this legislation.

Mr. HASTINGS. Suppose some of this land were allotted to a minor of this 600. Suppose the child then dies, what becomes of the land?

Mr. MERITT. The land would descend to the heirs of the child.

Mr. HASTINGS. What would become, then, of the timber?

Mr. MERITT. The timber would be sold for the benefit of the tribe and the money deposited in the Treasury to the credit of the tribe.

Mr. HASTINGS. Could the heirs of the deceased allottees immediately sell the land?

Mr. MERITT. Not without the approval of the department.

Mr. HASTINGS. And, of course, you would withhold that approval unless some provision was made for the timber?

Mr. MERITT. Yes, sir.

Mr. RHODES. Are you interested in this bill, Mr. Riddick?

Mr. MERITT. Not particularly.

Mr. HAYDEN. I would like to ask Mr. Meritt about certain recommendations made in the report of the commission to investigate irrigation projects on Indian lands on the Blackfeet, Fort Peck, and

Flathead Reservations under date of December 3, 1914. The commission consisted of the superintendent of the Fort Peck Reservation, the superintendent of the Blackfeet, and the superintendent of the Flathead Reservation, also Mr. W. S. Hanna, superintendent of irrigation; Mr. L. M. Holt, superintendent of irrigation; and Mr. Henry W. Dietz, superintendent of irrigation; the last three named of the United States Reclamation Service. The recommendations appear on page 39 of House Document No. 1215, Sixty-third Congress, third session, as follows:

We find that there are 218,000 acres of timberland on the Flathead Reservation, 18,000 acres of which have been allotted to Indians and approximately 5,000 acres reserved for the use and benefit of the tribe. There should be further reserved for the benefit of the tribe 5,000 acres more, making a timber reserve on this reservation of 10,000 acres for the exclusive use of the Indians. This would leave 190,000 acres remaining of timberlands.

The act of 1912, which provides for the disposition of the surplus land on opened reservations, reads as follows:

"That the Secretary of the Interior be, and he is hereby, authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands within any Indian reservation opened to settlement and entry, but not classified and appraised in the manner provided for in the act or acts opening such reservations to settlement and entry, or where the existing classification or appraisal is in the opinion of the Secretary of the Interior erroneous."

It is the opinion of this commission that this act is an injustice and detrimental to the welfare of the tribe of Indians and is not conducive to good administration and should be repealed for the following reasons:

Practically all the timber on this reservation is on the sides of the mountains which form watersheds and in which mountains are the sources of the streams from which water is secured for irrigation. If these timberlands are opened to entry these watersheds would no doubt soon be divested of their timber, thus permitting the run-off from the various streams which furnish water for irrigation to occur earlier each year than it otherwise would, and making additional storage necessary at a great expense in order to supplement the flow during the latter part of the irrigation season, and in view of this fact we believe and recommend that the surplus timberlands together with the timber on said lands on the Flathead Reservation not otherwise reserved or allotted be purchased and acquired by the United States at the original appraised value of the timber, the same having been appraised, plus the value of the land to be appraised by a competent commission of three appraisers to be appointed by the President, and that said timberland be placed under the supervision of the National Forest Service and be made a part of the national forest reserve, thus preserving the water supply for irrigation.

By the purchase of the surplus timberlands on this reservation by the United States and causing it to become a part of the national forest the Indian property adjacent thereto will not be so greatly endangered, by reason of the fact that the Forest Service is equipped for the protection of the forests against fire.

* * * * *

8. We recommend the act of 1912 which relates to the classification and reclassification and appraisal and reappraisal of the timberlands on the Flathead Reservation be repealed as this act, in our opinion, encourages entrymen to make application for the reappraisal of lands even after filing and making final proof, and in addition to this it will eventually mean the destruction of the timber which makes the mountains so valuable as watersheds and eliminates the necessity for additional storage of water for irrigation.

We do not believe the proposed amendment to section 11 of the act of March 3, 1909, which provides for the opening to entry the timberlands on the Flathead Reservation, should be enacted into law. Such a law would mean that the homesteader could divest the land of its valuable timber after filing and making his second payment with the results as stated above.

We earnestly recommend as being for the best interest of the Indians and in the interest of good administration that the United States purchase the timberlands on the Flathead Reservation not otherwise allotted or reserved and that

the same be made a part of the national forest under the supervision of the National Forestry Service. By so doing the timber will be cut under proper supervision and the watersheds will be preserved, and the run-off of the streams having their sources in the mountains will not occur so early each year as to make necessary the providing for additional storage for irrigation and the Indian property adjacent to the forests will be more amply protected from destruction by fire, because of the fact that the Forestry Service is better equipped for this purpose.

This bill, as I read it, provides for the allotment to Indians of certain parts of the timberland on the Flathead Reservation which this commission recommended be preserved as a protection to the watershed, and thereby destroy, to that extent, the forest protection that should be maintained in that reservation. I wanted to ask Mr. Meritt just what will be the effect of the passage of this bill and to what extent it will affect the forest cover that this commission says is so necessary to protect the headwaters of these streams which provide irrigation water for these Indians?

Mr. MERITT. The department has never taken action to request Congress to carry out this part of the recommendation of the commission. The department feels that it would be impracticable to request Congress to make a large appropriation for the timberlands of the Flathead Indians and include them in the national forest. This timber is being cut under the direction of the department and we are observing proper rules in the cutting of the timber so that the watershed will be preserved as near as possible. This timberland that we propose to allot to these minor children is the same land that can now be taken up by homestead settlers, and we want to give these Indian children living on the Flathead Reservation the opportunity to get the allotments out of lands that belong to the Flathead Indians. The proceeds from the sales of these lands to homesteaders would go into the tribal funds of the Flathead Indians. It is the wish of the Flathead Indians that these children be given these allotments.

Mr. HAYDEN. Your argument is that if the minor children do not obtain these allotments of timberland that homesteaders will locate the same lands.

Mr. MERITT. That is true.

Mr. HAYDEN. This commission recommends that the timberlands be preserved and that neither the homesteaders nor the Indians be allowed to acquire title, because when title once passes either to the homesteaders or to the Indians as the private owners of that land they can absolutely denude it of the forest cover, which would have a bad effect on the control of the flow of the streams which are so essential to irrigation.

Mr. MERITT. We thought that Congress would not make the appropriations to carry out this recommendation of the commission.

Mr. HAYDEN. I am not so much interested in whether Congress appropriates the money to purchase this land for forestry purposes as I am in the question of whether it is a good thing to allow such timberlands to pass into private ownership, either to allottees or homesteaders. Is that for the best interests of the Flathead Indians ultimately?

Mr. MERITT. The ideal way of handling this would be for the Government to purchase this land and timber and administer it as a

forest reserve, but we realize that Congress will probably not make the appropriation, and for that reason we are now asking that the Indian children be placed on the same footing as homesteaders, so that these children can get allotments out of lands that now belong to the Flathead Indians.

Mr. HERNANDEZ. Is there any other land to which they could be allotted besides these timberlands?

Mr. MERITT. No, sir. A large part of the Flathead Reservation has also been allotted and has also been taken up by homestead settlers, and there is only a small amount of unallotted land within that reservation.

Mr. HAYDEN. How large an allotment will you give to each one of these 600 children?

Mr. MERITT. Eighty to 160 acres, depending on the character of the land. Under the general allotment act we usually allot 40 acres of irrigable land, 80 acres agricultural land, or 160 acres of grazing land.

Mr. HAYDEN. If there were 160 acres allotted to each Indian it would take 96,000 acres to satisfy the 600 children entitled to allotments.

Mr. MERITT. We would probably allot 80 acres to each Indian child. This land would be classed as agricultural land rather than grazing land. That takes a little over 40,000 acres.

Mr. HAYDEN. How many acres are there remaining in the reservation unallotted at the present time?

Mr. MERITT. I will look that up and put it in the record.

Mr. HAYDEN. Approximately how much?

Mr. MERITT. About 200,000 acres.

Mr. HAYDEN. Is practically all of the 200,000 acres forest land?

Mr. MERITT. No, sir.

Mr. HAYDEN. How much of it is forest land, and how much of it is ordinary grazing land?

Mr. MERITT. About 50,000 acres is ordinary grazing land.

Mr. HAYDEN. It seems to me that if the Indian Bureau is going to allot to Indian children the forest lands, as provided in this bill, that the result will be the absolute disappearance of any kind of forest control on that reservation, with the ultimate condition, as pointed out by this commission of engineers, that the forest, having passed into private control, either to allottees or to homesteaders, there will be no possibility of proper conservation and regulation of the stream flow. The country will be denuded and in the end the tribe will suffer.

Mr. MERITT. That will be the condition under the present law. Homesteaders can go in and take these lands under existing law, and are doing so.

Mr. HAYDEN. Why not repeal the law which permits homestead entries right now? Why was it not repealed in 1914, when so recommended by this commission? They pointed out the danger five years ago. The commission said that if homesteaders were permitted to continue to take the timberlands that in the end they would get them all and the forest cover would be destroyed, to the ultimate serious injury of the tribe.

Mr. MERITT. We do not believe that it will result in any great injury to the tribe. The tribe wants to dispose of all their tribal property, and it is also the policy of Congress to dispose of all this tribal property. We do not think this irrigation project will be destroyed simply because this timber is cut. That was one of the minor recommendations made by the commission at that time. We thought it was impracticable and did not recommend it to Congress. This legislation simply places those Indian children, as I have stated before, on exactly the same footing which the homesteaders now enjoy; and it is proper that this legislation should be passed, because it simply gives these minor Indian children an opportunity to take allotments out of the land that belongs to the Flathead Indians.

Mr. HAYDEN. I would like to at least have the benefit of a report from those who know something about the value of forest cover as a means of conserving flow of streams before we take a serious step such as is proposed in this bill. The three superintendents of the reservations in Montana and three engineers of the Reclamation Service say that if the policy proposed in this bill is carried out it will ultimately result in injury to the tribe. If you are unwilling to accept the recommendation of men in your own service, would it not be advisable to ask the Forest Service to look at these Flathead timberlands and say whether or not they ought to be conserved as a forest?

Mr. MERITT. The Forest Service would undoubtedly say they should be conserved, it being the policy of the Forest Service to conserve the forests in the United States. But we are up against this proposition: Here are some tribal timberlands. It is the policy of Congress to dispose of all tribal property. The Flathead Indians want this property disposed of and they want their children to share in this property. They want them to have allotments; and, inasmuch as it is their property, we believe it is only fair that these children should have these allotments.

Mr. RHODES. Permit me to ask a question here: Were these questions raised by Mr. Hayden considered by the Senate committee when it had before it the consideration of this bill?

Mr. MERITT. I do not think that these questions were raised by the Senate Indian Committee.

Mr. RHODES. Suppose in order to expedite these hearings this morning, as soon as Mr. Meritt has completed what he desires to say on this bill, and as soon as members present have finished, that we proceed with the consideration of other bills and then go into executive session later on and discuss these matters.

Mr. HASTINGS. As I understand from you, under the existing legislation homesteaders can take up this land and this legislation is recommended in order to give an opportunity to Indian children who have been enrolled and whose enrollment has been approved up to January 24, 1908, to take this other land in lieu of permitting homesteaders to take it. Is that about the size of it?

Mr. MERITT. This is the situation. Under previous legislation enacted by Congress, we have made allotments to the Indians of the Flathead Indian Reservation. The allotment rolls closed on January 24, 1908. Since that date about 600 Flathead Indian children

have been born and we have not had authority under the legislation enacted by Congress to make allotments to those minor children. This surplus land on the Flathead Reservation is now subject to entry by homesteaders and instead of white homesteaders taking this land we want Congress to enact legislation that will give these minor children the privilege of taking this land instead of white homesteaders. That land belongs to the Flathead Indians. It is tribal property and the Flathead Indians want this legislation enacted.

Mr. HASTINGS. Have you any amendment to suggest to the bill that has passed the Senate?

Mr. MERITT. No, sir.

Mr. HASTINGS. The department recommends it without amendment.

Mr. MERITT. We are favorable to this legislation.

Mr. HERNANDEZ. Under the law giving the white settlers the right to homestead or buy these lands, no reservation of the timber lands was made?

Mr. MERITT. There is legislation authorizing the disposal of the timber and then the sale of the land to homesteaders after the timber is cut off.

Mr. HERNANDEZ. The timber was reserved to the tribe always?

Mr. MERITT. And with authority to cut the timber and sell the timber separately from the land.

Mr. HERNANDEZ. So that the white settler does not get the timber?

Mr. MERITT. No sir.

PATENT TO SCHOOL DISTRICT 8, SHERIDAN COUNTY.

Mr. RHODES. The next bill is Senate bill 2709. That is a bill that has been before the Senate for some time and has passed the Senate.

Mr. HAYDEN. I suggest, Mr. Chairman, that the bill be printed as a part of the hearing. It appears to be proper, and I can see no objection to its enactment.

(The bill referred to is as follows:)

[S. 2709, Sixty-sixth Congress, first session.]

AN ACT Authorizing the Secretary of the Interior to issue patent to School District Numbered eight, Sheridan County, Montana, for block one, in Wakea town site, Fort Peck Indian Reservation, Montana, and to set aside one block in each town site on said reservation for school purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to issue patent to School District Numbered eight of Sheridan County, Montana, for block one in Wakea town site in the former Fort Peck Indian Reservation, Montana, upon filing its application therefor, said block to be used and maintained for public-school purposes.

SEC. 2. That the Secretary of the Interior is authorized and directed to set apart for public-school purposes not exceeding one block of unappropriated land in each town site in the former Fort Peck Indian Reservation, Montana, created under the act approved May 30, 1908 (Thirty-fifth Statutes, page 558), and to cause patents to be issued therefor to the school districts within such town sites, respectively, upon their filing application therefore, such lots or blocks to be used and maintained for public-school purposes: *Provided*, That Indian children residing in such school districts shall at all times be received in schools used and maintained for public-school purposes in the town sites covered by this act on equal terms with white children.

Mr. RIDDICK. It is in my district.

Mr. RHODES. I will read the Senate report on Senate 2709.
(The report referred to is as follows:)

[Senate Report No. 210, 66th Congress, 1st session.]

The Committee on Indian Affairs, to whom was referred the bill S. 2709, having carefully considered the same, recommends that the same be amended as indicated below and as amended recommends that the bill do pass. The following amendments are suggested:

Add the following proviso to section 2:

"*Provided*, That Indian children residing in such school districts shall at all times be received in schools used and maintained for public-school purposes in the town sites covered by this act on equal terms with white children."

Amend the title by changing the word "township" to the words "town site."
The following letter from the Secretary of the Interior is made a part of this report:

SEPTEMBER 8, 1919.

MY DEAR SENATOR: I have the honor to refer again to your letter of August 13, 1919, inclosing for report copy of Senate 2709, a bill to authorize the issuance of patents for lands used for public school purposes within the several town sites on the Fort Peck Indian Reservation in Montana.

Section 1 of the bill authorizes the issuance of a patent to school district No. 8, Sheridan County, for block 1 in Wakea town site. Sec. 2 authorizes the Secretary of the Interior to set apart for public school purposes not exceeding one block of unappropriated land in each town site and to cause patents to be issued therefor to the school districts within such town sites, respectively, upon their filing application therefor, such lots or blocks to be used and maintained for public school purposes.

The town sites within the Fort Peck Reservation are 11 in number, and with three exceptions the lands embraced therein have not been surveyed into lots and blocks as authorized by sec. 14 of the act of May 30, 1908 (35 Stat. L., 558-563). The lots in the three surveyed town sites were offered for sale to the public in 1916. No lots were sold, and the sales were adjourned.

I am not advised as to the present conditions with respect to the need for school facilities within any of the town sites affected by Senate 2709, with the exception of the town site of Wakea, in which case it appears that school district No. 8 has made application to purchase block No. 1. This application, however, has not been acted upon.

I believe that the legislation proposed is a step in the right direction and that the results to be obtained, in the event of its passage, and providing of course the town sites are eventually opened and occupied as such, will be in the interests of the Indians as well as the public generally.

In order, however, that Indian children may not be deprived of the right to attend such public schools as may be established in the town sites covered by the bill, I suggest that the bill be amended by the addition of the following proviso to section 2:

"*Provided*, That Indian children residing in such school district shall at all times be received in schools used and maintained for public school purposes in the town sites covered by this act, on equal terms with white children."

The title should be corrected by inserting in place of the word "township" the words "town site."

If the bill is amended as herein suggested, I shall be glad if it is enacted into law.

Cordially, yours,

(Signed)

F. K. LANE, *Secretary*.

Hon. CHARLES CURTIS,

Chairman Committee on Indian Affairs, United States Senate.

Mr. MERITT. We are heartily in favor of this bill and wish to cooperate with the white settlers in carrying out its provisions.

ALLOTMENT TO CROWS.

Mr. RHODES. Well, gentlemen, that brings us to the consideration of H. R. 9709, introduced by Mr. Riddick, which provides for

the allotment of certain lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes.

Mr. HAYDEN. May I ask if a similar bill has passed the Senate?

Mr. RIDDICK. Yes, this exact bill passed the Senate. In fact, I introduced some time ago a bill providing substantially for what this bill provides for, and after that bill had been looked over in the Senate Committee and a bill agreed upon unanimously by the Indians, by the department, by the people of Montana, and by the members of the committee, then I introduced the same bill. I changed my bill and introduced a new bill.

Mr. HASTINGS. You say this bill passed the Senate?

Mr. RIDDICK. Yes.

Mr. HASTINGS. What is the number of the Senate bill?

Mr. MERITT. Senate 2890.

Mr. RHODES. We have not that here.

Mr. HASTINGS. Yes, we have.

Mr. HAYDEN. Mr. Chairman, we will not report anything out of this committee except Senate 2890, which has passed the Senate, so we might as well work on that bill from the beginning.

Mr. RHODES. I think so.

Mr. HASTINGS. It passed the Senate on October 23d.

Mr. RHODES. Suppose, then, we let Mr. Riddick proceed with the Senate bill. You may proceed, Mr. Riddick.

STATEMENT OF HON. CARL W. RIDDICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA.

Mr. RIDDICK. Gentlemen, the provisions of this bill are simply that the Crow Indian Reservation shall be divided among the different members of the tribe and each member of the tribe given an equal portion of the land. There is a provision in the bill providing that each Indian must keep for a period of 25 years 320 acres of the land, so that he may not become dependent upon the community, and the bill is safeguarded in different ways.

The Indians for many years last passed, the competent Indians of this reservation, have sought to have the property divided among them so that each could stand on his own footing as the white men do. This reservation is close to civilization, and these Indians, most of them, have commingled with the white people in the neighboring cities, towns and ranges, and many of them are as competent to direct their own affairs as the white people of that section of the country, and there has been a good deal of feeling for a long time, both on the part of the Indians as well as on the part of the white people who are familiar with the conditions, that it was very desirable that this reservation should be opened, but because of frictions of one kind or another there has never been any unanimity of opinion as to just how it should be done.

Finally, Senator Curtis, who is chairman of the Senate Indian Committee, tells me that finally delegations of Indians who represent the tribe, and people who represent the interests of Montana, and the Indian Department, and the Interior Department, and the Senate Indian Committee have all agreed that this bill is equitable in every detail and agreeable to everybody, and the Senate Committee is unanimously favoring this bill, which passed the Senate.

After it passed the Senate there are two matters that have been given further consideration, and I am going to recommend them to this committee as amendments. One of these matters is recommended as an amendment by Mr. Lane of the Interior Department. Both matters I have had up with the chairman of the Senate Indian Committee, and he is agreeable to both matters and is glad that we are going to make the amendments, and says he will recommend that these amendments be made in the Senate.

One amendment is on page 10, line 11.

Mr. RHODES. You mean your bill or the Senate bill?

Mr. RIDDICK. I am referring to my bill.

Mr. RHODES. Page what?

Mr. RIDDICK. Page 10, line 11.

Mr. HASTINGS. What section?

Mr. HAYDEN. What is the section of the bill?

Mr. RHODES. That would be section 11, I suppose.

Mr. RIDDICK. Section 10.

Mr. RHODES. Section 11 is on page 10.

Mr. RIDDICK. The section reads as follows:

That any unallotted lands on the Crow Reservation chiefly valuable for the development of water power shall be reserved from allotment or other disposition hereunder for the benefit of the Crow Tribe of Indians: *Provided*. That such lands shall not be leased or otherwise disposed of without the consent of the tribal council.

Now, as a matter of fact, there are valuable water-power sites, and one particularly valuable water-power site on this reservation, and the suggestion was made that inasmuch as some of these Indians are competent and some are incompetent, that it is an unwise proposition to leave to them the decision of the technical questions involving the leasing of water-power sites, but that it should be left to the Interior Department. Mr. Lane asked that this provision be simply stricken out.

Mr. RHODES. You mean the provision commencing with the word "*Provided*," after the colon in line 11?

Mr. RIDDICK. Yes; simply strike the provision out; just strike out the proviso.

Mr. HAYDEN. That proviso appears in the Senate bill at page 10, lines 2, 3, and 4?

Mr. RHODES. Inasmuch as that is the bill we are going to report, we had better work on that bill.

Mr. HASTINGS. On page 10, at the top of the page, lines 2, 3, and 4.

Mr. HAYDEN. Strike out the proviso.

Mr. RIDDICK. I might say in this connection that the House has passed a general bill that covers this matter of leasing water-power sites on Indian Reservations that amply protects the Indian and takes care of this very matter.

Mr. MERITT. The general water-power bill.

Mr. RIDDICK. Now, section 2 of your Senate bill.

Mr. HASTINGS. How much would be reserved under this section 10, if this bill is enacted?

Mr. RIDDICK. Well, there is one large and very valuable water-power site.

Mr. HASTINGS. You spoke of that. Now, in your judgment, would the department reserve others?

Mr. RIDDICK. I do not know whether it would or not. I think it might.

Mr. HASTINGS. How much is in this reservation?

Mr. RIDDICK. About 2,000,000 acres.

Mr. HASTINGS. What streams run through it?

Mr. EVANS. The Big Horn River.

Mr. HASTINGS. What do you think of this suggestion, that instead of striking out that proviso you add to it the provision, "That such lands shall not be leased or otherwise disposed of without the consent of the tribal council, approved by the Secretary of the Interior"? There you would provide the machinery for disposing of them.

Mr. RIDDICK. I think the existing law provides that those matters can not be done without the permission of the Indian Commissioner or the Secretary of the Interior.

Mr. HASTINGS. My recollection is that this general water-power bill we passed contained some such provision, but that has not passed the Senate.

Mr. RIDDICK. No it has not passed the Senate.

Mr. HASTINGS. And it may not, and it may not become a law, and therefore it may be necessary to have some legislation to dispose of it so the country might be developed.

Mr. RIDDICK. You perhaps know more about this than I do, but I think the existing legislation fully covers this matter, in the bill which the House passed.

Mr. HASTINGS. Let me ask Mr. Meritt if that is true, if that is contained in the pending bill?

Mr. MERITT. The water-power bill which passed the House of Representatives contains a provision which authorizes the leasing of water-power sites on Indian reservations. Under existing law we can only give a permit to operate power sites on Indian reservations, and because of the very large amount of money necessary to develop power sites we can not get people to go on these Indian reservations and expend their money under an uncertain tenure, and legislation therefore is necessary for us to develop these water-power sites.

Mr. HASTINGS. Now, inasmuch as we have no legislation except that which has passed the House and has not passed the Senate, what do you say, then, Mr. Riddick, about retaining that proviso, with the approval of the Secretary? That, as I understand it, is about what is in the pending legislation.

Mr. RIDDICK. I think the approval of the Secretary is all right. It seems to me inconsistent to expect a tribe of Indians, part of whom are competent and a part of whom are incompetent, to come to any good decision on any technical question like the leasing of a water-power site. It seems to me it would be just a bone of contention among the tribes. I think it is the policy of the department to discourage people from dickering with the Indians in matters of this kind, but to take it up rather with the department itself.

Mr. HASTINGS. Yes; but they have a whole lot of competent men in the tribe, you know, and I rather think that they ought to have something to say about it themselves. I do not know how many competent men you have. I am not very familiar with the Crow

Tribe of Indians; but assuming that one-half or three-fourths of them are competent and have an interest in this property, do you not think they ought to have something to say?

Mr. RIDDICK. There is always this danger, that people who have just a part of the fact are apt to arouse suspicions and cause delays in these things. I can see that that situation might prevail. I am anxious to see this water power developed promptly, and it will be developed promptly, and there are people anxious to develop it promptly, provided they can negotiate with somebody who can negotiate promptly, but if they have to deal with a tribe of incompetent Indians, they will never get anywhere.

Mr. HASTINGS. I am just as anxious to vote for this legislation as you are, now, or to-morrow, but I hesitate to say that the department up here should have this sole and exclusive control over property competent people have an interest in without their having anything to say about it. This would allow the matter to come up before the tribal council and be subject to the approval of the Secretary of the Interior, and that would safeguard it, and would enable leases to be made and the property to be developed.

Mr. RIDDICK. I have not any serious objections to that. Personally, I think it is a wiser provision to leave it to the department than it is to leave it to a tribe of mixed competent and incompetent Indians, because of the danger of delay, but I do not think that is a serious proposition. I am not disposed to be contentious in the matter, and if this committee thinks it is better to leave it to the Indians, I shall not oppose that arrangement.

Mr. HASTINGS. Let me ask Mr. Meritt, if you will pardon me, about how many Indians are in the Crow Tribe?

Mr. MERITT. One thousand seven hundred.

Mr. HASTINGS. About how many of these speak English?

Mr. MERITT. About 50 per cent.

Mr. HASTINGS. Have any of them been adjudged competent?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. About how many?

Mr. MERITT. I think there are about 200 Indians on the Crow Reservation who have patents in fee—between 200 and 300 Indians.

Mr. HASTINGS. That is a small per cent?

Mr. RIDDICK. One thousand seven hundred takes in the infants as well as the adults. That is a large percentage of the adults, is it not?

Mr. HASTINGS. Those 200 are all adults, of course?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. About how many adults are there of the 1,700, Mr. Riddick? Are some of these educated and good business men?

Mr. RIDDICK. Yes, indeed; yes, sir.

Mr. HASTINGS. Competent?

Mr. RIDDICK. Yes, sir.

Mr. HASTINGS. Patents have been issued to them?

Mr. RIDDICK. Yes, sir.

Mr. HASTINGS. And this is their property?

Mr. RIDDICK. Yes, sir.

Mr. HASTINGS. They are citizens of the United States?

Mr. RIDDICK. I can not tell whether they are or not.

Mr. HASTINGS. Are they allowed to vote?

Mr. RIDDICK. I think not.

Mr. MERITT. Some of them are citizens, and some are not.

Mr. HASTINGS. They are when a patent is issued?

Mr. MERITT. Yes, sir.

Mr. RHODES. All those to whom fee patents have been issued are citizens of the United States, are they not?

Mr. MERITT. Yes, sir.

Mr. RHODES. Let me ask Mr. Riddick a question or two right there. In your opinion, in the event this bill should be passed, with the provision that is now in the bill, which is as follows: "*Provided, That such lands shall not be leased or otherwise disposed of without the consent of the tribal council,*" would that be more desirable on the part of the Indians, as it is, or do you think they would be better satisfied with the bill if it should be amended by striking out this proviso, according to your suggestion?

Mr. RIDDICK. My judgment is that the Indians would be better satisfied with this provision in.

Mr. RHODES. Why did the chairman of the Committee on Indian Affairs of the Senate decide that the bill would be improved by striking out this proviso?

Mr. RIDDICK. Partly perhaps because the Secretary of the Interior asked that it be done. Before the Secretary of the Interior made this provision I talked about this very matter with the chairman of the Indian Committee in the Senate, and he said there is a good deal of camouflage about this provision, because Congress at any time could make any disposition it wanted to of this water power, but the Indians would feel better if this provision was in. He seemed to think after that was said the matter should be left to the Interior Department, unless Congress should take a hand in it as Congress was now doing in this bill which just passed the House.

Mr. RHODES. Are there any further questions to ask Mr. Riddick on this phase of the bill? If not, you may take up the second amendment that you refer to.

Mr. RIDDICK. The second amendment refers to section 2.

Mr. HASTINGS. Just a minute. Mr. Meritt, was this provision in the original bill that the department reported on to the Senate committee?

Mr. MERITT. No, sir.

Mr. HASTINGS. That was added as an amendment in the committee?

Mr. MERITT. That was added at the suggestion of the Crow Indian delegation which was here two or three months ago, and on the direct request of Senator Nugent of Idaho, who is a member of the Senate Indian Committee. I might say that this was one of the provisions which was contested before the Senate committee. Senator Walsh taking the position that the provision should not go in the bill because the water-power bill would take care of it, but on the request of the Crow Indians, Senator Nugent insisted that this item should go in the bill, and it was also the subject of debate in the Senate when the bill was up for consideration. Senator Myers, I believe, offered the amendment, which was voted down in the Senate, and

the bill, as originally reported by the Indian Committee, was passed by the Senate.

Mr. RIDDICK. There is just one other feature connected with this of which Senator Myers spoke. A very small proportion of the land that would be required for this water-power site is Indian land. A part of it is owned by white people, and the white people are very anxious that it be developed. The people can not get any action from the Indian Department. These white people are afraid that if it is left to the Indian council, some Indians who may not have the full knowledge of just what the thing will mean may delay action, and they want it, and would like very prompt action. Senator Myers made the statement that about 20 per cent of the whole site is owned by the Indians, and the rest is owned by other people.

Mr. EVANS. On public land?

Mr. RIDDICK. Public land; yes. The Montana people are anxious to develop this site and get electrical power to develop the State, and they are very anxious to take action on the matter.

Mr. RHODES. Very well, suppose we proceed.

Mr. RIDDICK. Section 2 provides for the conveyance of land by the Crow Indians, and provides, among other things, that no person who owns at least 640 acres of land may buy land of the Indians. While these Indians of their own right own a lot of land, a good many of them have been poor, in a sense, that they have not had very many of the conveniences of life. They each own about a thousand acres of land, and the proposition is that the Indian may sell his land, each competent Indian, and his portion of the tribal herd will go to him, and the money be available, so that each Indian will be able to start in farming very nicely for himself, but after going into this matter I find that a great lot of land on the reservation is leased, some of it for very long terms, and the thought occurred to me, as it will to you gentlemen, that if an Indian attempted to sell land upon which there was a 10-year lease, and the lease was not bringing very much revenue, he could not get very much for his land, and while I do not want to be suspicious, the suggestion has been made to me by different parties that the people who own these leases perhaps sought these long-time leases with the thought of getting hold of the land and perhaps buying at a very low figure from the Indians. So it occurred to me to make the suggestion to Senator Curtis and he said he thought it was a splendid suggestion that there be a provision added to this section that no land should be offered for sale or sold by any Indian until all leases had expired. That means that when the Indian has a piece of land to sell, it will have to be sold in the open market. There are homesteaders who are anxious to buy this land and who will go in there and buy it in small tracts. It is against public policy and against the interest of the Indians to let any large interest go in there and gobble up great expanses of this very valuable land.

Mr. RHODES. In regard to the long term of existing leases, and the rent for the use of the premises that the lease provides, what have you to say on that question, especially the rent provided for under these existing long-term leases, as compared to the rent charged and collected by white people on similar property in the State of Montana?

Mr. RIDDICK. I will be glad to give what information I have as to that. During the war we were all interested in raising all the wheat we could, and taking advantage of that loyalty, and all that. A man by the name of Mr. Campbell went to Mr. Lane, I understand, and made some proposals as to the leasing of this land, and the matter was brought up to Congress, and Mr. Lane was authorized to lease large portions of this and other Indian reservation to Mr. Campbell, and he was authorized to organize a corporation, and he organized a corporation and leases have been entered into for irrigated land. This corporation, or Mr. Campbell, has been authorized, as I understand the lease, to go into this reservation and other reservations and select any land he wants, and lease it for 10-year periods. On the irrigated land he pays 10 per cent of the crop, for the first five years, and 20 per cent of the crop for the next five years, and then before he leaves the land he has to seed a portion of it in alfalfa. Those same lands, under similar conditions, instead of leasing for 10 or 20 per cent, lease for 50 per cent in Montana.

The dry farming land was leased for 5-year periods, with the option of renewing the lease for another five-year period. During the first five-year period the lease is at $7\frac{1}{2}$ per cent, and for the second five-year period the lease is at 10 per cent, I believe. Is that correct, Mr. Meritt?

Mr. MERITT. No, sir. On the irrigable land—

Mr. RIDDICK. I am talking about the nonirrigable land.

Mr. MERITT. That is modified, so that he can only lease for five years on nonirrigable land, and we get 10 per cent, in addition to fencing the land, breaking it up, and also a part of other improvements.

Mr. RHODES. What do you say the customary rental is on similar land in your State?

Mr. RIDDICK. In Montana it is the custom for people to rent and put into crop large stretches of open land and to protect it from herds, and to put in a crop and break up the land, as Mr. Meritt says, and pay one-third of the crop as rental. In fact, the crops for the first few years on this dry land is the best crop we raise, for different reasons and there is nothing in taming the land out there, as there is in some States.

Mr. RHODES. Mr. Riddick, how would you compare the rents provided for in this Campbell lease with rents generally prevailing in your State?

Mr. RIDDICK. I would say that the Campbell lease provides for a rental of about one-third as much as the ordinary commercial rate.

Mr. RHODES. Are you speaking now, as a matter of information and observation there, or are you speaking with regard to personal knowledge?

Mr. RIDDICK. I am speaking from my own experience and observation out there, and from my experience as an owner of land who has rented it to others, and a renter of other people's land. I have rented myself land—large tracts of open land, and arranged for the persons to put it into crops, fence it to protect it from range cattle, for one-third of the crops, and I have rented large stretches of other people's land and paid one-third of the crops as rental, with an arrangement to leave the land in good shape.

Mr. RHODES. Mr. Riddick, I have seen it stated in letters received by members of this committee from people in Montana that the amount of rent paid under the existing long-term leases is far below that which is customary in the State of Montana, and that this rent is unreasonably low. And it is further claimed that bona fide residents of the State of Montana are in a position to pay more money for the use of these lands. In your opinion, do you regard the rent as being fair or unreasonably low?

Mr. RIDDICK. In my judgment, there is no question or doubt but that the rent is unreasonably low, because people are trying to rent land out there and are unable to get it, although they are offering for irrigated 50 per cent of the crops, and are offering for the non-irrigated land 33½ per cent of the crops, and are willing to comply with all of the provisions of these leases that I have enumerated.

Mr. RHODES. These objections, however, would not seem to go to the merits of this bill, because this bill seeks to dispose of the property. Now, I would like to ask this further question: In what way would the long-term leases which are now in force on this property affect the value of the land in event this bill should pass and the property offered for sale by the Indians?

Mr. RIDDICK. This Indian reservation comprises some very fine land, and many people, as soon as it was opened, would rush there and attempt to buy the land. If a bona fide buyer should find there was a five-year lease on the land or a 10-ten year lease he would either not buy at all or else he would only offer a very small price for the land. He would be put in this position: He might go to the man who held the lease and offer to pay him so much an acre to remove the lease. It puts the man who holds the lease in a position to secure as much money for offering to open this land as the Indians who would sell the land.

Mr. RHODES. In other words, you would regard it as an unbusiness-like and impractical method to undertake to dispose of these lands so long as they are encumbered by long-term leases; is that your opinion?

Mr. RIDDICK. It is. It is very unfortunate for the Indians. Some of them would only receive a very small fraction of the value of the land.

Mr. RHODES. You think the amendment you propose here in connection with section 2 of the bill would fully correct that?

Mr. RIDDICK. I would like the judgment of the committee as to this amendment: After the word "imprisonment," which is the last word in section 2, strike out the period and insert a semicolon and add the words, "and no land shall be sold or offered for sale by any Crow Indian upon which there is an unexpired lease. Any sale made contrary to this provision shall be void." I would like the judgment of the committee as to whether that would protect the Indians from offering any lands for sale until the lease has expired.

I had not thought of entering into the question of these leases. While I think some mistake has been made in giving leases on the lands, still there is no legislation that can remove them. The only thing we can do now is to protect the Indians. Some of the leases extend over varying periods. I think the same objection to the Indians selling those lands would hold.

Mr. RHODES. I do not care to ask Mr. Riddick anything further myself.

Mr. HAYDEN. Mr. Riddick, this bill appears to be in the same general form as other acts which have passed to provide for the opening of Indian reservations. You have followed the general form of such legislation, as a rule, throughout the bill?

Mr. RIDDICK. Yes, sir; I have.

Mr. HAYDEN. Modifying it to meet the special requirements on the Crow Reservation?

Mr. RIDDICK. Yes, sir.

Mr. HASTINGS. I wanted to ask Mr. Riddick whether he thought the word "unexpired" was sufficient. That would cover, would it not, the lease that was canceled or released?

Mr. RIDDICK. Yes, sir; I hope so.

Mr. HASTINGS. I think it would; if so, I favor that. I heartily favor that. I have had a great deal of experience with these leases, and you could not sell me a piece of land with a five-year lease on it.

Mr. RIDDICK. I would like to call attention to a problem that has just come to me which I can not fully cover. I do not know how it can be covered. This provides that no land shall be sold until the lease has expired. There is nothing to prevent a prospective purchaser from going to the man holding the lease and offering him \$10 an acre.

Mr. HERNANDEZ. The lessee, you mean?

Mr. RIDDICK. Yes, sir; that provision still remains there.

Mr. RHODES. Have you discussed this feature of the bill with the chairman of the Senate Committee on Indian Affairs?

Mr. RIDDICK. Yes, sir.

Mr. RHODES. What did he say about it?

Mr. RIDDICK. He said that was a splendid provision. He said he had not thought of that. He said he attempted to get hold of this Campbell lease at different times. He felt some hasty action had been taken, perhaps, in the excitement of our need for raising grain during the war. He was glad this provision contemplated it, and he said if the House would incorporate that in the bill he would urge his committee to accept it, and, undoubtedly, it would be accepted by the Senate.

Mr. HASTINGS. You have stated that you had experience out there in leasing lands, and you think the amount paid and the amount received under these Indian leases is too small. You have, of course, carefully read these leases, and you have read their requirements about the kinds of posts, the kinds of fencing, and the other improvements required under these leases to be placed upon the land.

Now, in making your statement about this amendment to the effect that more could be obtained from individuals out there on similar land, do you take the character of improvements required by these leases into consideration?

Mr. RIDDICK. Yes, sir; I do.

Mr. HASTINGS. And you mean to say now that all of these improvements required under these departmental leases, covering fencing, the kind of posts, and the kind of fencing, and all other improvements could be secured from individuals, with the added rental that you speak of?

Mr. RIDDICK. I really think they could. I do not mean to be critical of the department. I think that in our eagerness to raise wheat Congress appropriated a lot of money for irrigation at that time, and little thought was given to anything else. These leases are very similar to other leases in Montana, with the exception that they extend over a so much longer period, and they provide for a so much smaller compensation to the owner of the land. Otherwise they are very similar to other leases.

Mr. HASTINGS. My experience, not with this reservation but with other Indian reservations, is that the department is just a little bit strict in having the terms of the leases lived up to; that is, having the fence that a man agrees to place upon the land actually placed there, the kind of posts, put at a certain depth and a certain distance apart, really put up as agreed to, etc. You now state, upon your own personal knowledge, as a representative from that State, that similar leases have been made and can be made, and that all these lands could be placed under similar leases, and that a higher rental could have been obtained.

Mr. RIDDICK. I think there is no question or doubt about it, Mr. Hastings. That is my honest judgment.

Mr. HASTING. What I was trying to direct your attention to was the character of improvements, and whether the same kind of improvements are made on other lands.

Mr. RIDDICK. The improvements are the customary improvements, so that as to the irrigable land they are to leave it in alfalfa after the final crop. That is a very ordinary arrangement.

Mr. RHODES. I believe you have stated that except as to the long term and the low compensation, they are identical with private leases?

Mr. RIDDICK. I have never heard of any land being leased for a 10-year period in Montana, outside of these lands.

Mr. RHODES. I would like to call your attention to this fact. At a recent hearing it was said that on the Crow Reservation something like 30 or 40 miles of fence had been built at a certain cost, which, when figured out, amounted to exactly \$1.76 per rod. Do you know whether that fence was built on the property that is embraced in these Campbell leases? In other words, will the lessees get the benefit of the fences that have already been built at the expense of the Indians?

Mr. RIDDICK. That fence was what they called a drift fence, built to keep cattle off the reservation.

Mr. RHODES. I did not mean the object for which it was built. Is that fence on the property covered by this Campbell lease, and will the lessees get the benefit of that fence that has already been built at the expense of the Indians at the remarkably high cost of \$1.76 a rod?

Mr. RIDDICK. I can not answer that question. I do not know that this fence is any benefit to the Indians. I doubt it. This fence was built on this land at a cost of between \$500 and \$600 a mile, which was a tremendous cost for the kind of fence it was.

Mr. RHODES. Suppose this 30 or 40 miles of fence was not built upon agricultural land, but suppose it was built upon grazing land, and that some of these five-year grazing leases covered this land:

then, is it not a fact that the lessees under the grazing leases get the benefit of the fence already built?

Mr. RIDDICK. There is no doubt about it.

Mr. RHODES. At the expense of the Indians?

Mr. EVANS. Were the fences built at the expense of the Indians?

Mr. RHODES. They were built out of a reimbursable appropriation, to be charged against the tribal funds.

Mr. HASTINGS. Is this land exclusively in your district, or a part of it?

Mr. RIDDICK. It is all in my district, but Mr. Evans has been recently Congressman at Large in the State, and they all have an interest in this reservation.

Mr. RHODES. Are there any other questions upon this matter?

Mr. KELLY. I would like to ask a question, although I am not a member of the committee. I notice that in this bill there is a provision that the Secretary of the Interior may sell to soldiers, sailors, or marines certain allotted and inherited land held in trust, and then I notice another provision where any of these Indians may sell 320 acres of their land. Now, is there a provision so that a soldier, sailor, or marine will have the preference in regard to the sale of the 320 acres that the Indians are permitted to sell, as well as these allotted and inherited lands held in trust?

Mr. RIDDICK. The Indian is permitted to sell all except 320 acres.

Mr. KELLY. Yes; to sell all except 320 acres.

Mr. RIDDICK. No provision is made to give a soldier, sailor, or marine any preference right in buying Indian lands. That would be hardly fair to the Indians, who ought to have an open-market sale of the land.

Mr. KELLY. I was thinking that in view of the fact that we are considering legislation to take this public land and give it to the soldiers, sailors, and marines, that there ought to be a provision in here by which it could be taken care of.

Mr. RIDDICK. That, perhaps, would be very fine for the soldier, but it occurs to me that it would not be fair to the Indian to restrict his market for his land. He is entitled to get as much as he can get for his property and sell it in the open market. That is my judgment.

Mr. RHODES. You do not think it requires that degree of patriotism on the part of the Indian that might prevail among white people?

Mr. KELLY. But is there not some way by which the Government can assure the market price to the Indians and at the same time take care of these men who are anxious to get homesteads on such land as this?

Mr. RIDDICK. Of course, the returning soldier can buy land if he pays as much as anybody else can. Unless the United States Government comes in and pays the bills, I can not see any way that would be fair to the Indians.

Mr. KELLY. You, I understand, have got a bill on the calendar which provides that the Government shall put up funds for these soldiers. Now, if you are going to do that, which is a worthy cause, why should we not take advantage of the lands that we already have, valuable lands?

Mr. HAYDEN. But the distinction you fail to make, Mr. Kelly, is that this is Indian land and is their own private property, and they

are entitled to the maximum price for it. It is not public land. Congress is acting as a trustee for the Indians, and it is our duty to see that they get the most that is possible out of their estate.

Mr. RHODES. While that is true, Mr. Hayden, should not preference be given to the soldier in his right to purchase this land, as suggested by Mr. Kelly?

Mr. HAYDEN. I think so; if a discharged soldier should offer to pay the same amount as somebody who was not a soldier, then the ex-soldier could be given the preference.

Mr. HASTINGS. If the land was put up and sold to the highest bidder, some fellow would be the highest. If a man bid \$10 or \$11 an acre, another man would bid 5 cents more, so you could not have such a case.

Mr. RHODES. Perhaps I am more in need of concrete information on this bill than any other member of the committee, because I am a new member of the committee, and from a geographical standpoint far removed from the State. I should like to ask you a question, Mr. Evans. Has Mr. Riddick stated the facts in regard to the prevailing leases and the compensation for both dry-farming land and irrigable land about as you understand the situation in your part of the State?

Mr. EVANS. I could not say, Mr. Chairman, because I have no land leased over in my section of the country. I am in a mountain country and never leased any land and never dealt in that kind of land transactions.

Mr. RHODES. Very well. I thought perhaps you were as well prepared to speak from a practical standpoint as Mr. Riddick.

Mr. EVANS. I am not.

Mr. RHODES. I was not asking this question to discredit anything Mr. Riddick said, but the more abundant the proof is the better I might be prepared to defend on the floor of the House if it became necessary.

Mr. HASTINGS. Mr. Meritt is here, and has heard this statement made, and I have heard other statements made criticizing the department, and if he has any statement he wants to make on that, I would be very glad to hear it.

Mr. RHODES. I was just getting ready to call on Mr. Meritt, if nobody else has any questions.

Mr. MERITT. I was going to suggest that I have an opportunity to make a statement about this leasing matter.

Mr. RHODES. You may have it right now, Mr. Meritt. You may proceed.

Mr. MERITT. Mr. Chairman, the Crow Indians, for a long period of years, have been endeavoring to prevent the opening of their reservation by various acts introduced by Senators and Representatives in Congress from that State. As far back as 10 years ago, I can remember that we used to come up before the House and Senate Indian committees and oppose these various bills, not only because of our interest in the Crow Indians, but because the Crow Indians themselves were protesting against the legislation introduced.

During the last Congress legislation was introduced in the Senate to open the Crow Reservation, and I appeared before the Senate committee and represented the Indian office and the department and opposed the enactment of that legislation. I was finally asked what legislation we would favor, in the event that there was legislation to

be enacted, and before the Senate committee I outlined what we considered would be fair and equitable legislation for the Crow Indians.

Senator Walsh introduced a bill very largely along those lines, and after consultation with the Crow Indians. The Crow Indians came here this last summer, and we went before the Senate Indian committee, and for two weeks we were in conference on this bill, and the bill now before you, Senate 2890, is the result of all these agreements, meetings, and conferences with the Crow Indians and the members of the Senate committee and the representatives of the Interior Department.

We feel that the bill is fair and just in general principles, and in general terms to both the Crow Indians and the Government, and we are in favor of the bill as passed by the Senate, subject, of course, to such minor amendments as the committee may deem proper.

Mr. HAYDEN. Before you go on with the other matter, have you any further suggestions to make with respect to amendments to this bill?

Mr. MERITT. No, sir.

Mr. RHODES. Would you regard the amendments outlined by Mr. Riddick as being objectionable from the department's standpoint?

Mr. MERITT. I would think that any legislation that would prevent absolutely the sale of any lands on the Crow Reservation under lease might work a hardship to Indians in certain cases. I think that the bill should be framed so that these lessees will not have an unfair advantage in buying the land, and I believe that it was the intention of the Senate committee to so word the bill so that they would not have that advantage.

You will notice that in section 2 the bill reads as follows:

That no conveyance of land by any Crow Indian shall ever be authorized or approved by the Secretary of the Interior to any person who owns at least 640 acres of land within the present boundaries of the Crow Indian Reservation.

That was for the purpose of preventing anybody getting any large tract of land on that reservation.

The bill also provides, on page 2, lines 11, 12, and 13, "which leases in no event shall be renewed or extended by the Secretary of the Interior after the passage of this act." That was a provision of the bill to protect the Crow Indians against the lessees now on the reservation.

It would work a hardship in certain cases to prevent by legislation an Indian selling his allotments. For example, an Indian may be old and in poor health, and this would be all the property that he might have, and by legislation you would tie up the property of that Indian so that he would not enjoy the benefit of his property while he was living.

Mr. RIDDICK. May I ask one or two questions right there? I think they will throw some light on this matter.

Mr. RHODES. Go ahead.

Mr. RIDDICK. How much land is leased for 10 years or thereabouts?

Mr. MERITT. Campbell has leased between 30,000 and 35,000 acres at this time. Only a small part of that is irrigable land. I have a telegram this morning from the Crow agency, which says that 22,844

acres dry land and 10,364 acres of irrigable land have been leased to the Montana Farming Corporation.

Mr. RIDDICK. Is most of the balance of the reservation under lease to the cattlemen?

Mr. MERITT. A large part of the reservation is now leased to cattlemen.

Mr. RIDDICK. For a long period from now?

Mr. MERITT. That information is contained in a table that we have heretofore submitted to Congress, as follows:

Grazing leases on the Crow Indian Reservation, Mont.

Lessee.	Term.	Stock.	Number.	Per head per year.	Rent per year.	Acres under lease (approximate).
Spear-Zimmerman Cattle Co.	5 years from Feb. 1, 1916.	Cattle...	20,900	\$3.00	\$62,700	634,680
E. L. Dana.....	5 years from June 1, 1917.	do.....	17,300	4.11	71,103	346,762
J. B. Lenz & Co.....	do.....	Sheep...	118,500	.666	79,000	473 9 8
Woodson J. Moss.....	5 years from Feb. 1, 1918.	Cattle...	1,500	4.11	6,165	37,500
Spear Bros. Co.....	3 years from May 15, 1918.	Sheep...	15,000	.25	3,750	60,000

Here is a map of the reservation which shows the lands leased to the cattle people, the J. B. Long lease, the E. L. Dana, and the Zimmerman lease, and a certain reserved part of the land between the two rivers, known as the Flat Iron district, for the tribal herd. We have on the reservation now about 15,000 head of cattle running in the tribal herd.

Mr. RIDDICK. To take care of the matter to which you just referred, would you think this a practical proposition, to have the Indian who wanted to sell his land permanently select land upon which there was no long-term lease, and the Indian who did not want to sell his land promptly select land that was under a lease for such a long term?

Mr. MERITT. Possibly all the land that he might own would be included in one of these leases, and this legislation you suggest would tie his hands so he could not get any benefit from his property.

Mr. RIDDICK. But in all cases this so-called reserve would give him additional land, would it not?

Mr. MERITT. Yes, sir.

Mr. RIDDICK. I was thinking in my mind of the additional land he could sell promptly if he were anxious to sell.

Mr. MERITT. But that would probably be covered by these grazing leases, all the reservation being under lease except this range between the two rivers.

Mr. RHODES. If you are through on that point, to go back to the point made by Mr. Riddick, and which I hardly think was covered in your reference to section 2 of the Senate bill, I want to know this: If this bill should pass both branches of Congress and become a law in its present form, is there anything in the bill that would prevent these long-term lessees from acquiring large tracts of this land?

Mr. MERITT. Yes, sir.

Mr. RHODES. Now, let us see. You cited as authority in support of your position awhile ago this language:

No conveyance of land by any Crow Indian shall ever be authorized or approved by the Secretary of the Interior to any person who owns at least 640 acres of land within the present boundaries.

Now, does not that language go direct to the proposition of selling the land; that is, the present owners of the land, or allottees under this act, would not be permitted to sell to any person who owns more than 640 acres of land. Now, under the law and under the lease the lessees do not own this land. Is there anything in this language which would prevent the lessee or anybody else who does not own any land there at the time this act becomes effective from buying more land than 640 acres? This is a restriction upon the sale of the land to people who own 640 acres of the land to-day, but it seems to me that that language would not reach a case in which a lessee might seek to acquire a large acreage who does not own one acre of land.

Mr. MERITT. I know what was intended by the Senate Indian Committee in this language.

Mr. RHODES. But what do you say now this bill does?

Mr. MERITT. Knowing the intention of the Senate Indian Committee, the department would construe this legislation to mean that we would be without authority to sell to any person, firm, or corporation more than 640 acres of land.

Mr. RHODES. The bill does not say so, Mr. Meritt, as I understand that language.

Mr. HAYDEN. I think, Mr. Meritt, you had better look again at section 2, and prepare an amendment which will do just what you state the Senate committee intended to do, because I am afraid that it does not prevent the sale of more than 640 acres of land to persons who may hereafter acquire land on the Crow Reservation.

Mr. MERITT. That section was drafted by one of the ablest lawyers in the United States Senate, who is thoroughly familiar with the conditions on the Crow Reservation—Senator Walsh of Montana.

Mr. RHODES. Well, my judgment would be, with all due respect to the distinguished Senator, that there is a joker in this provision, or he has made a mistake in this case.

Mr. MERITT. I would be very glad to have that made perfectly clear, so that no person could acquire more than 640 acres of land.

Mr. RHODES. Mr. Meritt, I would like to ask you one question in particular. I am very glad you have already given the dates of these existing leases. On page 39, serial No. 13, of the recent hearing before this committee there appears the so-called Thomas D. Campbell lease, and I see that this lease is without date. I should like to have you give the committee the effective date of this lease.

Mr. MERITT. The date of the agreement with Campbell is April 6, 1918, and in order that there may be no question about this agreement I would like permission to read this agreement into the record at this time.

Mr. RHODES. Well, it is already in the record of the recent hearings, but I have no objection.

Mr. HASTING. Let it be inserted in the record here, without reading it.

(The agreement referred to is as follows:)

AGREEMENT FOR LEASING CERTAIN FARMING LANDS ON INDIAN RESERVATIONS.

Whereas Thomas D. Campbell desires to lease lands within the Crow, Blackfeet, and Fort Peck Indian Reservations, in the State of Montana, and within the Wind River (or Shoshone) Indian Reservation, in the State of Wyoming, for the purpose of farming and to raise wheat and other grain and forage; and

Whereas there are on the said reservations above mentioned large areas of rich farming land capable of producing vast quantities of grain foodstuffs, which lands the United States Government is holding in trust for the members of the Indian tribes living thereon; and

Whereas the Secretary of the Interior is authorized by various acts of Congress to exercise the powers of a trustee, and thus to act for and in behalf of those Indians whose lands are held in trust, in so far as pertain to the use of these lands, under rules and regulations prescribed by him: Therefore

Be it known that the following articles of agreement are hereby entered into by and between the said Thomas D. Campbell and the Secretary of the Interior:

It is understood and agreed that the said Thomas D. Campbell shall have the right to go upon the lands within the boundaries of the following Indian reservations, viz. Crow, Mont.; Wind River (or Shoshone), Wyo.; Blackfeet, Mont.; Fort Peck, Mont.; for the purpose of selecting, in conjunction with the respective superintendents thereof, such lands as may be suitable and adaptable for the purpose of farming; and to negotiate leases of lands found suitable; such leases, in the case of lands covered by trust patents, to conform to the rules and regulations of the Department of the Interior for such leasing, except where such rules and regulations conflict with the terms of this agreement, in which case the terms of this agreement shall have the effect of regulation.

It is further understood and agreed that the following requirements shall be provided for in any lease of trust patent Indians' land which may be entered into by the said Thomas D. Campbell in accordance with the terms of this agreement:

That the lessee will crop all dry land farming area at least once in every two years and irrigated land each year, and cultivate the land according to up-to-date methods adopted by the best agricultural practice.

That the lessee will fence the outboundaries of each segregated tract of land with a stock-proof, four-strand, galvanized, barbed-wire fence, with either cedar or steel posts, one rod apart; the posts, if cedar, to be not less than 3 inches in diameter at top if round, or 4 inches if split, and to conform to the Cedarmen's Association specifications, and to be not less than 6½ feet long, set not less than 18 inches in the ground. If steel posts are used, they must be of substantial weight, with anchor plates or devices, all to weigh not less than 6 pounds.

That the lessee shall have the privilege of placing divisional lines of fence, built in accordance with section 2 hereof, wherever he deems necessary, within the boundary of any segregated tract.

That the lessee shall leave all land in good state of tilth at the end of lease period; and in order that there may be no loss of crop to the lessor due to lack of summer fallow during the last year of the lease period, it is agreed that mutual notice of the termination of the leases be given one year prior thereto, and that the lessee will permit the lessor to enter upon the land during the last summer season of the term for the purpose of summer fallowing such parts of the land as are not in crop.

That in case of irrigated lands the lessee agrees to fence each section or fractional part thereof; provided that in special instances the superintendent of the reservation may permit the fencing of a larger tract in order to allow more advantageous use of tractor machinery.

That the lessee agrees to pay all maintenance charge for water delivered on section lines, provided such charge is not in excess of \$1 per acre.

That the lessee agrees to seed, with the last grain crop, not less than one-fourth of the irrigated acreage of each allotment to alfalfa, the seeding to be done in such manner as to give reasonable assurance of a good stand.

That the leases on irrigated lands shall be for a period of 10 years; and that leases on nonirrigable or dry farm land shall be for a period of five years, with a provision for extension to a 10-year period, subject to legislative authorization.

The additional consideration for the use of all irrigated lands leased under this agreement to be 10 per cent of all crops raised during the first five years of the lease, and 20 per cent of all the crops raised during the last five years.

The additional consideration for the use of all dry lands leased under this agreement to be 7½ per cent of all crops raised during the first five years: *Pro-*

vided, however, That in case the dry-land leases are extended at any time during the first five years so as to cover a total 10-year period, then, and in that event the additional consideration shall be equivalent to 10 per cent of all grain or forage crops raised each year during the first five years and 20 per cent of all crops raised each year during the last five years of the period; the grain to be delivered at the railroad shipping point most convenient to the lessee, or as may be agreed to with the superintendent; the lessors' share of hay or other forage crops to be delivered in the stack, to be removed by the lessor without damage to the lessee; *Provided,* That three-fourths of all threshed straw except flax shall become the property of the lessor on condition that it be removed by him in time for plowing the next crop.

It is understood and agreed that the superintendent of each reservation shall be authorized to sign leases for minors and undetermined heirs, and for such other Indians as may not be prepared to develop their land for efficient agricultural purposes, but who fail or refuse to sign leases covering their trust patent lands.

It is further agreed that the said Thomas D. Campbell shall have the right to sublet such tracts of land leased by him as are sufficiently isolated from the larger tracts to render the use of large tractor machinery impracticable.

It is also agreed that the said Thomas D. Campbell may negotiate with stock lessees or permittees who have range on any of the Indian reservations named, for the purpose of obtaining their consent to the withdrawal of any agricultural land from their lease for farming under the terms of this agreement; *Provided,* That such lands are to be selected in conjunction with the superintendent of the reservation; and in case any lands are selected through the mutual agreement of the lessees or permittees, Thomas D. Campbell and the superintendent, then it is understood and agreed that the grazing fees of the cattle lessee or permittee shall be reduced in proportion to the acreage withdrawn.

It also agreed that lands now listed for sale, lying within the boundaries of tracts selected for farming under this agreement, will be withdrawn and withheld from sale, except in such cases as it is shown that the owner of the land is in need of the proceeds of such contemplated sale for the necessities and comforts of life; such sale to be subject to any existing lease.

It is further agreed that a lien upon all crops grown upon Indian land under this agreement shall constitute a sufficient bond on the part of the lessee for the fulfillment of any contracts made by reason of this agreement.

It is understood that the Secretary of the Interior will render such assistance as may be consistent to facilitate the delivery and shipment of the equipment, seed, etc., necessary to effectively carry out the terms of this agreement.

It is understood that if any tribal lands are selected for lease under this agreement it will be necessary to obtain the consent of the tribe through its accredited representatives.

It is also understood and agreed that the superintendent shall be guided in his approval or disapproval of particular selections of land, for leasing and farming under this agreement, by broad principles of justice and equity toward the Indian owners of the land, and that no allotment shall be arbitrarily selected for lease whose owner is now prepared to go upon it and make it productive, or whose conduct has been such as to give promise of early use of his land by himself—on the other hand, no lands are to be withheld from lease through prejudice or willful disregard for the country's general welfare.

It is understood and agreed that the terms of this agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns; and it is further understood and agreed that the said Thomas D. Campbell may organize a corporation for the purpose of carrying out the terms of this agreement, and when such incorporation is accomplished, he may assign this contract to the corporation so formed; provided said corporation shall agree to be bound to fulfill all the obligations, conditions, and stipulations of this agreement; and provided further that no other assignment than that mentioned shall be made either by the said Thomas D. Campbell or the corporation to be formed, without the written consent of the Secretary of the Interior.

(Signed)

FRANKLIN K. LANE,

Secretary.

(Signed)

THOMAS D. CAMPBELL.

Witness:

(Signed)

JOS. J. COTTER.

(Signed)

GIENN M. SHAEFFER.

Mr. RHODES. May I inquire, inasmuch as it seems to be the parent lease or contract under which leases are contemplated or made possible—I should like to ask if any leases that have been made in pursuance of the Thomas D. Campbell so-called lease extend beyond the period embraced in the Campbell lease?

Mr. MERITT. No, sir. We lease under that agreement the dry land for the period of 5 years and the irrigable land for a period of 10 years.

Mr. RHODES. In other words, the dates of the leases provided for under the Campbell contract expire on the same date as that set forth in the contract; is that a fact?

Mr. MERITT. No; the lease would run for a period of five years from the date of the lease with the allottee.

Mr. RHODES. Well, when does the Campbell lease expire?

Mr. MERITT. This Campbell agreement is dated April 6, but the lease runs from the very date of the individual lease.

Mr. RHODES. But it does provide for 10-year leases, does it not?

Mr. MERITT. Five-year leases and 10-year leases.

Mr. RHODES. But it provides for 10-year leases, and also provides for five-year leases in the nonirrigable land, with the privilege of renewal, which I construe to mean practically a 10-year lease. What I am getting at is this: Do the leases made in pursuance of this lease all expire at the end of five years, or do they expire at the end of 10 years?

Mr. MERITT. The leases expire at the expiration of five years on the nonirrigable land.

Mr. RHODES. When do the others expire?

Mr. MERITT. They expire on the irrigable lands 10 years from the date of the lease covering that land, and not from the date of the Campbell contract.

Mr. HASTINGS. This is just a contract for a lease, and you take up and let leases under it?

Mr. MERITT. Yes, sir.

Mr. KELLY. Under what authority was that agreement made with Thomas D. Campbell?

Mr. MERITT. We have authority under existing law to lease Indian lands for 10 years for irrigable purposes, and 5 years for non-irrigable purposes.

Mr. KELLY. He organized a corporation, did he not, and then leased it?

Mr. MERITT. Yes, sir.

Mr. RIDDICK. May I ask a question right there? In this general agreement with Campbell one of the provisions reads as follows:

That the leases on irrigated lands shall be for a period of 10 years; and that leases on nonirrigable or dry farm land shall be for a period of 5 years, with the provision for extension to a 10-year period.

Were these 5-year leases written with the provision that they could be extended for another five years?

Mr. MERITT. They were, but that will depend upon legislation by Congress.

Mr. HAYDEN. Yes; Mr. Riddick omitted to read, "Subject to legislative authorization." As I read the law, and I want to find out from Mr. Meritt if I am correct, there is now no authority of law which

gives anybody a preference right to a subsequent lease for an additional five years on dry farm land.

Mr. MERITT. No, sir.

Mr. HAYDEN. So that when the 5-year lease expires, unless Congress in the meantime had authorized the extension, there would be no way by which the lessee could claim a preference right to a new lease?

Mr. MERITT. That is true, and under this proposed legislation we would not have authority to extend these leases, because it says, "Which leases in no event shall be renewed or extended by the Secretary of the Interior after the passage of this act."

Mr. RHODES. Well, I think I can best elucidate my point by asking you what, if any, leases have been made in pursuance of the Campbell contract?

Mr. MERITT. We have made leases to the Montana Farming Corporation, which succeeded Mr. Thomas D. Campbell in this agreement, covering 22,840 acres of dry land and 10,364 acres of irrigable land.

Mr. RHODES. Of what date?

Mr. MERITT. As I stated before, these leases do not all bear the same date.

Mr. RHODES. What date does that lease bear?

Mr. MERITT. The lease that we have furnished for the record bears date of the—we have a number of leases here. You will notice in the Senate Hearings, beginning with page 40, we give both forms of lease, lease A and lease B.

Mr. RHODES. Who hold lease A?

Mr. MERITT. The allotment of 766 Crow tribe of Indians.

Mr. RHODES. Well, what is the date?

Mr. MERITT. The 30th of April, 1918.

Mr. RHODES. For what length of time?

Mr. MERITT. It is, on irrigable lands, 10 years.

Mr. RHODES. Now, then, I would like for to give the date of that lease to the Montana Farming Corporation.

Mr. MERITT. The date of the agreement is April 6, 1918.

Mr. HASTINGS. That is the lease with Campbell?

Mr. MERITT. That is the agreement with Campbell, and the Montana Corporation succeeded to Campbell's rights. He transferred them to the Montana Corporation.

Mr. RHODES. I thought that the department executed a new lease to the corporation.

Mr. MERITT. No; we simply agreed to the transfer.

Mr. RHODES. In other words, the Campbell contract was assigned to the Montana Farming Corporation; is that correct?

Mr. MERITT. That is correct.

Mr. RHODES. And that is the 10-year lease, in so far as it covers irrigable lands?

Mr. MERITT. Yes, sir.

Mr. RHODES. Now, do you believe, Mr. Meritt, that the Indian lands, incumbered with a 10-year lease, could be sold to the best advantage if put on the market for sale during the period of the lease?

Mr. MERITT. No; we discourage the sale of lands under that lease.

Mr. RHODES. Well, to what extent would you be able to either discourage or prevent the sales?

Mr. MERITT. No restricted Indian can sell his land without the approval of the Secretary of the Interior.

Mr. RHODES. So, then, you have actually considered the inadvisability of putting Indian lands on the market incumbered with a 10-year lease, and it is the intention of the department to protect them?

Mr. MERITT. Yes; we intend to protect the Indians every way we can. Now, then, as to the lease proposition, gentlemen of the committee, prior to the time this Campbell lease was made we had expended about a million and a half dollars of the Crow Indian funds in the construction of an irrigation project. There was under that project approximately 75,000 acres of irrigable land, according to our last reports, and only 23,846 acres of that irrigable land was under cultivation. Only 6,000 acres of that was cultivated by white owners, and 17,315 acres were cultivated by Indians. That left about 50,000 acres of irrigable land under that project that was not being cultivated.

We had in every possible way endeavored to get that land under cultivation, covering a period of several years. Our files are full of correspondence with various superintendents of that reservation urging them to get that land under cultivation.

Mr. RHODES. I concede the correctness of that position, and I concede the merit of it. I am glad to know that view of the matter prevails; but what I am getting at is to be assured that in the event this bill passed these lands would not go upon the market under such a handicap as to prevent their being sold to the best advantage, and I want to be certain that there is no language in this bill which would permit such a construction as to allow that condition to arise. That is exactly what I want to find out.

Mr. MERITT. We will bear that in mind, and knowing the intention of the Senate committee in preparing this legislation, we would be very sure not to sell to any person more than 640 acres of land, and that we would discourage Indians from selling any of their leased lands, and would only sell where it was imperatively necessary to meet the needs of the Indians.

Mr. RHODES. In case of that Campbell lease, before I forget, I wish you would give to the stenographer the names and the date of the leases you have before you, that have been made pursuant to the Campbell agreement.

Mr. MERITT. We have approved a great many leases under the Campbell agreement, and to give the names of each allottee, would be a very large list of names.

Mr. RHODES. Well, could you give half a dozen of those cases; I don't want to incumber the record unnecessarily, but I want to get this thing in my mind logically, and in a chronological order.

Mr. MERITT. I have a report here from Supt. Asburn, of the Crow Reservation, dated May 19, 1919, in which he incloses a large number of leases to the Montana Farming Corporation.

Mr. HASTINGS. Well, I don't think he wants all of the leases. I think he wants in there the names, and the dates, and perhaps the amount.

Mr. RHODES. I want to know the names of these lessees, so that on request I may know whether there have been any such lessees, to whom these lands have been leased, and from whom.

Mr. MERITT. We have leases here from Medicine Sack, Medicine Buffalo Cow, Luke Rock, Shows Going, Strong Heart, Pole, and by Supt. C. H. Asbury, for Army Old Bull.

Mr. RHODES. I think that is sufficient now.

Mr. HASTINGS. And others?

Mr. MERITT. And others.

Mr. RHODES. Were these leases made pursuant to the Campbell agreement?

Mr. MERITT. Yes, sir.

Mr. RHODES. And for what length of time?

Mr. MERITT. Ten years for irrigable lands.

Mr. HASTINGS. What are the respective dates?

Mr. MERITT. Beginning on the 1st day of January, 1919—

Mr. RHODES. Well, then, these leases do not expire until 1929. I have no other questions to ask Mr. Meritt.

Mr. RIDDICK. Mr. Meritt, 6,000 acres of irrigable land was cultivated by other persons prior to the Campbell lease?

Mr. MERITT. Yes, sir.

Mr. RIDDICK. At what rate was that leased?

Mr. MERITT. That area was cultivated by white lessees and white owners, and I haven't the information before me as to the rate. The rate, of course, would vary, according to the location of the land.

Mr. RIDDICK. Could you put into the record some of the rates at which that land was leased?

Mr. MERITT. Grazing land brought a rental of 7 cents per acre; hay land brought 50 cents an acre, in addition to certain improvements specified in the lease.

Now, in addition to my statement, I would like to say further that at the time we entered into this agreement with Mr. Campbell, the country was at war with Germany, and the Government was urging food production, and we felt that it was not only a business proposition to get this large amount of land under cultivation, but that it was our patriotic duty to the Government to get this land under cultivation.

We took this matter up with the Crow Indians, and they consented to this lease, and, in order that there might be no question about that, if agreeable to the committee, we will place the consent of the Crow Indians in the record at this place.

Mr. RHODES. If there is no objection, it will be so ordered.

Mr. MERITT. The agreement is as follows:

CROW AGENCY, MONT.,

June 10, 1918.

Whereas the Tribal Council or Business Committee of the Crow Indians in the State of Montana is composed of the following membership, to wit: Plenty Coos, Chief of the Crow Indians, John Frost and Pretty Coyote, of the Pryor District; Robert Yellowtail and Ben Spotted Horse, of the Wyola District; One Star and James Carpenter, of the Lodge Grass District; George Hogan and Russel White Bear (substitute for Sees With His Ears), of the Reno District; Jim Hill and Sits Down Spotted of the St. Xavier District; Shows His Coos and Shobe Littlelight, of the Lower Big Horn District; and Thomas Medicine Horse and Old Horn, of the Black Lodge District, a total membership of fifteen, and

Whereas the said Business Committee or Tribal Council has this day met at the Crow Agency in the State of Montana for the purpose of considering the terms and conditions similar to those contained in the agreement dated April 6, 1918, between Honorable Franklin K. Lane, Secretary of the Interior, and Mr. Thomas D. Campbell, photographic copy of which agreement has been carefully considered by us, and

Whereas we understand the great need that all people of the United States of America should do everything possible to increase the grain and other farm products in order to feed and clothe our own soldiers, and people as well as the soldiers and people of France, England, and our other friends aiding us in the present war with Germany, and

Whereas we, as the spokesmen and representatives of the Crow Indians, desire to prove again—as we have done in many ways in the past—our true loyalty and friendship to the Government of the United States of America by aiding in every way possible to increase the farm products, particularly during the period of the war, and

Whereas we desire also to increase the value of our lands and the income therefrom in order to better supply the needs of our fellow tribesmen,

Now, therefore, we do hereby authorize the superintendent of the Crow Indian Reservation to take any and all steps necessary to make and complete agricultural leases for not to exceed one hundred fifty thousand acres of Crow Indian Reservation tribal lands under terms and conditions equal to or better than those set out in the agreement mentioned in the second paragraph hereof: *Provided*, That the authority granted herein shall not in any way apply to allotted lands: *And provided further*, That the authority granted herein shall not be construed to in any manner interfere or retard the pending negotiations for completing the allotments of the remainder of the Crow tribal lands including the lands to be leased under this authority: *And provided further*, That any proceeds coming from the leased tribal land by reason of this agreement shall be converted into money at the earliest practicable time each year following the harvest of the crops raised on the tribal lands in question and paid pro rata to the Crow Indians: *And provided further*, That not to exceed fifteen thousand acres of tribal land shall be selected under this authority from the tribal herd range otherwise known as the Triangle Range.

Witnesses to signatures:

FRANK A. THACKERY.

FRANK A. THACKERY.

FRANCES HILL.

FRANK KYSELKA.

FRANCES HILL.

FRANK KYSELKA.

FRANCES HILL.

FRANK KYSELKA.

FRANCES HILL.

FRANK KYSELKA.

FRANCES HILL.

FRANK KYSELKA.

FRANCES HILL.

FRANK KYSELKA.

FRANK A. THACKERY.

FRANCES HILL.

FRANK KYSELKA.

FRANK A. THACKERY.

FRANCES HILL.

FRANK KYSELKA.

FRANK A. THACKERY.

W. J. PERKINS.

FRANK A. THACKERY.

FRANK STRAVE.

FRANK A. THACKERY.

W. J. PERKINS.

VICTOR THREE IRONS.

PLENTY COOS.

Chief of the Crow Indians.

JOHN FROST.

ROB'T YELLOWTAIL.

PRETTY (his x mark) COYOTE.

THOMAS MEDICINE HORSE.

SITS DOWN (his x mark) SPOTTED.

RUSSELL WHITE BEAR.

ONE (his x mark) STAR.

SHORE DAYLIGHT.

OLD (his x mark) HORN.

GEORGE W. HOGAN.

BEN SPOTTED (his x mark) HORSE.

JAMES CARPENTER.

SEES WITH HIS (his x mark) EARS.

JAMES HILL.

SHOWS HIS (his x mark) COOS.

PRYOR, MONT., June 21, 1918.

Plenty Coos signs with understanding that not to exceed 10,000 acres of tribal land be chosen from Pryor District or District No. 4.

FRANK A. THACKERY.

Mr. HAYDEN. Of course, the leases which are dated January 1, 1919, and April 1, 1919, were made after the armistice was signed.

Mr. MERITT. But the agreement was made five months before the armistice. The agreement was dated April 6, 1918.

Mr. HAYDEN. But the list you are putting in there is dated January 1, 1919.

Mr. MERITT. Yes; but I had only reference to the contract, and we would not violate the terms of the contract. These leases are made with the consent and approval of the allottee.

Mr. HASTINGS. In other words, the Indian allottee makes the agreement, and it is forwarded by the superintendent to the department, and then the department approves it?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. And that is in accordance with the agreement made April 6, 1918?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. These contracts are made under that?

Mr. MERITT. Yes, sir.

Mr. RHODES. Now, Mr. Meritt, I want to assure you that there is no criticism on my part for the making and execution of this lease. I want to meet the situation as we find it to-day, without any reference to the reasons which made it possible to the lease in the first instance. I understood that it was at least considered a wise thing to do, but the question now is to meet the situation before us. That is the only thing I have in mind, and the only reason I have for making this inquiry, and before we leave finally on that point, I want to ask just how much land Mr. Campbell acquired under this contract?

Mr. MERITT. He has acquired, up to this time, approximately 35,000 acres on the Crow reservation, and he also has acquired between twenty and twenty-five thousand acres on the Fort Peck reservation.

Mr. RHODES. Well, that would be about 65,000 acres?

Mr. MERITT. And he has the proposition under consideration of acquiring land on the Blackfeet reservation. We have a large amount of irrigable land on that reservation that we have not been able to get under cultivation, and we will be very glad to lease some of that land to the Montana Corporation, or to anyone else who will come to the department and lease that land.

Mr. RHODES. Now, Mr. Meritt, in Everybody's Magazine, July, 1919, issue, it appears that Mr. Campbell acquired a lease on 200,000 acres of Indian land for agricultural purposes; is that true, or is it not?

Mr. MERITT. He has not acquired 200,000 acres.

Mr. RHODES. Well, what is the total acreage under his lease, if you know?

Mr. MERITT. Thirty-three thousand two hundred and nine acres at Crow and 20,000 acres at Fort Peck; total, 53,209 acres.

Mr. RHODES. This same article states that Mr. Campbell organized this corporation for the purpose of conducting a large wheat farm, for the purpose of growing wheat as a commercial proposition, and states that he controls 200,000 acres of such lands. It is no criticism, but it is rather complimenting his patriotism as an American citizen in undertaking to aid the country by increasing the food supply.

And there is another question I would like to ask, if you know, who are the lessees, or rather of whom is the Montana Farming Corporation composed?

Mr. MERITT. Mr. Morgan has an interest in the corporation, I understand, and Mr. Campbell is a stockholder, and he is the president also of the corporation.

Mr. RHODES. Do you know whether the stockholders are, or are not, residents of the State of Montana?

Mr. MERITT. I think that most of them are nonresidents of the State.

Mr. RHODES. Where does Mr. Campbell reside?

Mr. MERITT. Mr. Campbell's home was formerly in South Dakota, and in later years he has lived in California. I do not know where he claims his residence now. His headquarters are at Harding, Mont. I will say that I was on the Crow Reservation last summer, and visited the land under cultivation by the Montana Corporation. They are conducting a very large operation on that reservation, and it is my understanding that because of drought conditions they lost probably a quarter of a million dollars as result of that operation on the Crow Reservation.

Mr. RHODES. Now, you say, Mr. Morgan. Is he Mr. J. P. Morgan, of Morgan & Co., New York?

Mr. MERITT. Yes, sir.

Mr. RHODES. Are there any further questions, gentlemen?

Mr. EVANS. Mr. Meritt, what is the compensation derived from the various lands rented by the Indians under those leases?

Mr. MERITT. We had some land lying idle there, and we were endeavoring by every means in our power to get that land under cultivation. We are not charging any more than we can get to place that land under cultivation. Up to the time that we made these leases with Campbell, we were not able to get anybody in Montana, or elsewhere to go there and cultivate those lands. We have the same conditions now on the Black Feet Reservation. We have several thousand acres of land lying idle, and we can not get people in Montana or elsewhere at the present time to go there and put that land under cultivation. We have the same situation on the Fort Peck Reservation, where the Government has expended large amounts on an irrigation project. We believed that we could get a larger amount for these lands, but we were unable to do so.

Therefore, we got the largest amount that we were able to procure under the conditions. Now, you will remember that this corporation goes on this raw land and develops it from a raw state, and, on irrigable land, it costs a great deal of money to bring raw land under cultivation. They not only pay this rental, but they develop this raw land. They put this land under fence. They leave a part of this land under cultivation and grow alfalfa, which will be a very fine thing for those Indians, at the expiration of 10 years. They will be practically independent. In the meantime, they are getting a reasonable rent from these leases, for this land, a rate that they had not heretofore been able to get.

My personal opinion is that this is a low rental, but it is the best rental that we were able to get.

Mr. EVANS. Do you think, in the light of the experience you have had, you could get a better rental to-day?

Mr. MERITT. The very fact that the Montana Corporation has gone on this land and has developed a part of this land, has increased, very materially, the value of that land to the Crow Indians. We can sell that land, now, at probably 50 per cent more than we could have sold it before we made this lease to the Montana corporation, and my opinion is that this lease will very materially increase the value of the land of the Crow Indians, and it will, also, enable us to lease those other lands on the reservation at a higher price than they could have been leased if we had not made this lease to the Montana Corporation. But there are people who now criticize us for making this lease; but those same people were criticizing us for not leasing this land prior to the time we did make the leases.

Mr. HASTINGS. Mr. Meritt, are you leasing now? Are leases now being made under the Campbell agreement?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. They have continued to be made within the last few months?

Mr. MERITT. Yes, sir.

Mr. EVANS. Well, is it the policy of the department to continue to make leases, or limit the amount of land that is to be leased to Campbell, for 10 years?

Mr. MERITT. Yes, sir; we feel that it is our duty to carry out our agreement with Mr. Campbell.

Mr. EVANS. I understand; but how much have you agreed to lease? What is the total amount?

Mr. MERITT. There is no specified amount.

Mr. HASTINGS. What is the total of the Campbell lease?

Mr. RHODES. What is the total amount that he could go on the reservation and select, within the limits?

Mr. HASTINGS. That is what I was going to ask.

Mr. MERITT. All of the Indians will have to give their consent.

Mr. RHODES. I know; but that does not answer the question.

Mr. HASTINGS. In other words, could it be canceled? Could your agreement, now, with Campbell, be canceled? Is there any legal objection, or any legal reason why it could not be canceled? Did you obligate yourself to lease any particular amount, or obligate yourself to approve leases up to a certain time? I haven't gone into it carefully; that is the reason I am asking.

Mr. MERITT. There is no such proviso in the agreement.

Mr. HASTINGS. So that the department could refuse now to approve of any more leases and not violate this agreement.

Mr. MERITT. I think it could.

Mr. HASTINGS. I have not read it critically, and I am asking for information. Suppose a certain Indian had such land, and the Montana Farming Corporation, and some other person desiring to lease the land, also applies for it, and offers to pay a higher rental, you are not by this agreement compelled to lease the land to the Montana Corporation, but you can lease it to the man who offers a higher rental?

Mr. MERITT. Yes; the Indian can lease to anybody that he wants to lease to, with the approval of the department, and we would naturally approve a lease to the person offering the highest rate.

Mr. RHODES. Yes; but does the lease, or the Campbell contract, give him the option to acquire such lands as he may desire within a certain area?

Mr. MERITT. He has got to negotiate a lease with the allottee, and get the consent of the allottee before he can get the lease.

Mr. RHODES. But the fact remains that he is restricted within a certain area in which to secure and obtain the leases, is he not?

Mr. MERITT. He can lease anywhere on the reservation with the consent of the allottee.

Mr. RHODES. Well, then, can you give us an idea, getting back to Mr. Hastings's question, what is the total number of acres of land that the assignees, under the Thomas D. Campbell contract, may lease on the Crow Reservation?

Mr. MERITT. There is no special limitation in the agreement with Mr. Campbell.

Mr. RHODES. Then he might, under the provision of this lease, acquire all of the lands on the reservation if he could prevail upon the Indians to make such agreements with him?

Mr. MERITT. We, of course, would not permit him to do that.

Mr. RHODES. I know; but I am speaking within the letter of the lease. If there is no limit to the number of acres he can acquire—

Mr. MERITT (interposing). No, sir; that could not be done; he could not do that, because a good part of this land has already been leased for grazing purposes.

Mr. RHODES. Well, then, he can acquire all of the unleased land under the terms of this contract?

Mr. MERITT. Yes, sir.

Mr. RHODES. And up to this time he has acquired less than 100,000 acres?

Mr. MERITT. He has acquired 22,844 acres of dry land and 10,364 acres of irrigable land on the Crow Reservation.

Mr. RHODES. I mean on all of the reservations; he has acquired something less than 100,000 acres?

Mr. MERITT. Considerable less than 100,000 acres. Probably he has acquired 65,000 acres.

Mr. RHODES. Now, just how long do you expect him to continue making leases with the individual Indians?

Mr. MERITT. I think that they will continue for probably a year to get additional leases.

Mr. RHODES. Well, suppose he should negotiate and enter into leases with certain Indians during the year 1920; when would those leases expire, assuming they were irrigable lands?

Mr. MERITT. In 1930.

Mr. RHODES. In 1930?

Mr. MERITT. In 1930; 10 years.

Mr. HAYDEN. With regard to the Crow Reservation, if the department thought it advantageous to continue making these leases, they could continue?

Mr. RHODES. Of course, this bill would apply to no Indians except the Crow Reservation.

Mr. HASTINGS. Has the department had occasion to carefully read this bill as it passed the Senate, with the Senate amendments, and are you prepared now to state the department's view upon this bill as it is before the subcommittee?

Mr. MERITT. Secretary Lane prefers that the bill should be amended so far as it relates to the power site on the Crow Reservation.

Mr. HASTINGS. Well, that is section 10 we had up.

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Well, you have heard the amendment I suggested, to the effect that they be approved by the Secretary of the Interior; what do you say about that?

Mr. MERITT. The Secretary, of course, would prefer that the power be vested in the department rather than have the power vested in the tribal council, to determine the action that it might want to take.

Mr. HASTINGS. Then, you take away all initiative from the Indian and from the council, no matter how many competent Indians there may be or how many competent Indians had passed on this matter; is that the department's view of it?

Mr. MERITT. The department would prefer that the provision in the water-power bill should govern in leasing this power site, rather than to have an exception made in the provisions in this Crow bill.

Mr. HASTINGS. Well, if we pass it, this Crow bill now, and if we passed the other one, it would appear that this would conflict with it. If we have some legislation in the water-power bill which is not yet passed—it has passed the House but has not passed the Senate—if this passed, if we had a law, and then a subsequent law was passed which conflicted with it, it would repeal it to that extent.

Mr. MERITT. I believe that, as a matter of law, if the general water bill should pass after this legislation has passed, that this would be considered as special legislation applicable to the Crow Reservation, and, therefore, the general water-power bill would not apply.

Mr. HAYDEN. Let's get the facts about this water-power site. In the first place, I suppose there are about a thousand adult Indians of the Crow Tribe, of whom 200 are competent?

Mr. MERITT. Between 200 and 300 have already been declared competent, and probably others will be declared competent.

Mr. HASTINGS. How many are there?

Mr. HAYDEN. About 1,000 adults—

Mr. MERITT. I think there are considerably fewer than 1,000 adults.

Mr. HAYDEN. Anyhow, a majority of the adult members of the Crow Tribe are incompetent.

Mr. HASTINGS. I think that is important. He says about 200 are competent. Now, I want to know how many adults are incompetent, so that we can get at this proposition. There is a big difference between 200 and 400 or 500 or 600 out of 1,700.

Mr. RHODES. There would be a big difference in the ratio.

Mr. MERITT. There are 1,703 Indians on the Crow Reservation, and 407 of them are of school age.

Now, the paper before me does not give the number of Indians who are adults and who are minors.

Mr. HASTINGS. Well, anyway, we can approximate it. The nearest approximation is that the Indians will consist of about one-fifth of the area of land affected by this water-power site, and that the Federal Government, through its ownership of public lands and public owners, will be interested in the other four-fifths. Therefore, there is a danger that—a majority of the Indians of this tribe

are incompetent—and the Indians of this tribe would have the control of the disposition of a water-power site, in which they have but a 20 per cent interest. Now, under those exceptional circumstances, it seems to me that the Secretary of the Interior could be given full authority to dispose of this matter, which would not be true if the entire project belonged to a tribe of Indians, a majority of whom were competent. Now, what does the general law provide, so far as it affects the Indians; how does it affect the individual Indian, and how does it affect the white man; how does the general law affect them?

Mr. HAYDEN. If private property is taken for public use, for the erection of a dam, or an irrigation project, or where land is inundated by the construction of a reservoir, the Government, in constructing the project, or the lessee, would have to compensate the private landowner for the value of his property, either by agreement between them, or else the damage would be fixed by condemnation proceedings in court.

Mr. HASTINGS. Now, suppose that some of the competent Indians had been allotted land which would be affected?

Mr. HAYDEN. If such Indians are citizens of the United States, they would be treated exactly the same as white men. They would either have to agree upon the value of the property taken from them, or else it would have to be determined by condemnation proceedings. There is no question about that.

Mr. RIDDICK. So far as individual owners are concerned, under that part of the section the Secretary would have authority to deal with anybody he wants with regard to the water-power proposition.

Mr. HASTINGS. I have never seen yet where the Secretary of the Interior has ever had very much trouble inducing Indians to make a lease where the department suggested that they would probably approve it. Does this give the Indian some say-so about his property? To say a man is competent, and yet say that he shall not have anything to say about his property, or the control of it, is a policy I do not subscribe to.

Mr. RIDDICK. Don't you believe that the Secretary would listen to his request if he were competent?

Mr. HASTINGS. Well, I want to make him do it by statute. You know, I have lived under department rule all of my life, and have never known anything else, and I believe that a competent Indian ought to be consulted with reference to any property in which he has an interest.

Mr. HAYDEN. Then you would compromise by saying that the Tribal Council shall be consulted in regard to the lease of power sites and its approval required, and also the approval of the Secretary of the Interior.

Mr. HASTINGS. Also, the Secretary of the Interior. I think that ought to be there, and I have no objection to that.

Mr. RHODES. Are we through with Mr. Meritt, gentlemen?

Mr. HASTINGS. Why, I was about to ask Mr. Meritt if there was any objection to this bill?

Mr. MERITT. No, sir; the bill is very satisfactory to the department.

Mr. HAYDEN. I would suggest, Mr. Rhodes, in order to be sure about it, that the chairman of this committee refer the Senate bill

2890 to the Secretary of the Interior for a formal report so that we may have the benefit of his views in writing.

Mr. RIDDICK. He has the Senate bill, and has written to this committee saying that he favors it, approves it, and asking for one thing, merely that that provision be eliminated.

Mr. HAYDEN. I did not know that there was such a letter.

Mr. RHODES. Now, I want to offer this suggestion. I want to say that if there are here persons who want to be heard on this bill, or expect to be heard, we will either have to hear them now, or we will have to adjourn until to-morrow, or some other time.

Mr. HASTINGS. They have a rather important bill up in the House.

Mr. HAYDEN. What is the necessity for any further hearings on this measure. We have had the benefit of the views of the Congressmen from Montana who are familiar with the case; we have under consideration a bill which was passed by another body, as a result of long hearings, and much debate, and we have the benefit of the views of the Indian office. I do not believe that further testimony is needed. From what source can we obtain any information that would be of value?

Mr. RHODES. That might be a very practical way in which to look at the matter, but if there are those present who want to be heard I would be inclined to hear them.

Does any other gentleman desire to be heard?

**STATEMENT OF MR. ORLANDO DUCKER, EXECUTIVE OFFICER,
MID-EUROPEAN UNION, ROOM 203 McLACHLEN BUILDING,
TENTH AND G STREETS NW.**

Mr. HAYDEN. You reside in the District of Columbia?

Mr. DUCKER. No, sir; I am residing now in the State of Virginia.

Mr. RHODES. On whose behalf are you appearing?

Mr. DUCKER. On behalf of the soldiers who fought in France that are descendants of immigrants from middle Europe. In other words, I come as the executive officer of an organization known as the Mid-European Union. It was the one that was recognized by the President of the United States, at the signing of the declaration of the Common Aims of these nations at Philadelphia, in October, 1918, that caused the dismemberment of Austria.

Mr. RHODES. Will 10 minutes' time satisfy you, will that be enough time in which to make your statement?

Mr. DUCKER. I would prefer—that is entirely up to the committee—but I would prefer another date, as I have been away from the office.

Mr. HASTINGS. What has your statement to do with this bill?

Mr. DUCKER. It is on behalf of the soldiers themselves. There are about 300,000 of them that were in France fighting for America, and they are American citizens.

Mr. RHODES. Let me offer this suggestion. It is difficult to get this subcommittee back here. All of our time is taken up, and it is a real sacrifice for members to be here, and I am anxious to hear what you have to say, and if the committee will agree to do so, we can give you 10 minutes' time now, if the committee feels like they can remain that much longer. Otherwise, we will have to take an adjournment.

Mr. DUCKER. It is entirely up to the committee.

Mr. HERNANDEZ. I fail to see how this is going to affect the soldiers. This matter has reference to the Indians, and their rights, and I do not believe this legislation would affect the soldiers.

Mr. RHODES. This might not be the proper time to discuss that question, but I would like to hear all of those who request to be heard on the bill first.

Mr. HAYDEN. If the gentleman will confine his remarks to this bill, let us hear him for 10 minutes.

Mr. RHODES. You may proceed for 10 minutes.

Mr. DUCKER. Thank you, gentlemen.

These people whom I am representing here to-day are citizens of the United States. There are several millions of them who are citizens of the United States, and their sons went to France to fight as citizens of the United States. They have returned. They desire land. They feel that under this bill as it now is, if it passes, that they would have no chance whatever to many any purchases of land on the Crow Reservation. That is what they are interested in. They would like to know what is essential to purchase the land, and they would like to have some assurance that they could do so. Under this bill—you gentlemen here are all business men, and you can see very easily under this bill how the Morgan interests—as I understand it, they are mixed up in this leasing—could purchase all of that land. There is nothing to prevent it.

You say that a man will not be permitted to buy over 640 acres, or a section. You can see how easy it would be, and it has been done, thousands and thousands of times, and every business man knows that it is easy enough to get some man to go and buy that land and then take it from him. It is an easy matter. The result is that the interests could go and purchase the land, and the soldiers and marines would have no chance whatever to make any purchases.

We ask that some safeguards be put around this bill, or that it not be passed at all, and rather that a new bill be introduced that will safeguard the interests of those who have sacrificed their lives, a great many of them, and who now bear wounds, that they have some land in the country.

Mr. HAYDEN. Have you and specific amendments which would accomplish that purpose?

Mr. DUCKER. The only specific amendment I could possibly suggest for this bill, would be not to pass it at all, but to substitute a new bill entirely.

Mr. HAYDEN. Well, what would you put in the new bill?

Mr. DUCKER. In the first place, it seems to me that it is necessary to pass a law or a resolution through Congress stopping any further leases, which would prevent the Morgans—

Mr. HASTINGS (interposing). To stop leasing?

Mr. DUCKER. There should be a joint resolution that would stop that now.

Mr. HAYDEN. Just what do you want to do to make it possible for soldiers to make homes on this land?

Mr. DUCKER. Now, then, if we could have a bill so arranged so that the soldiers could have preference; in other words, be able to pay as much as other parties—if you would frame your bill so that the soldiers would have a right to go and buy that land at the same rates and prices as anybody else would.

Mr. HASTINGS. You have heard the testimony, and unless the leases are canceled—this bill will provide for the stopping of any further leases of land, and there would be no sales of land upon which there are leases that would eliminate that part of the suggestion.

Mr. DUCKER. Not under the bill as it is, because there are so many loopholes that seem to be in that, that it would take so many changes and reservations—

Mr. HAYDEN. Can you point out any additional loopholes in this act?

Mr. DUCKER. I can not give any off-hand now, gentlemen, but I would only be too glad to submit such as I think would be a safeguard, or would safeguard the interests of the soldiers, but it would be impossible for me to go into any details now.

Mr. RHODES. I appreciate what you say. Then, gentlemen, if there is no objection, I suggest that Mr. Ducker be accorded the privilege of filing a brief with this committee on the bill within five days.

Mr. HAYDEN. I would suggest that the gentleman's comment on the bill be limited to its subject matter.

Mr. RHODES. I assume that whatever the gentleman may desire to submit will be addressed to the subject.

Mr. DUCKER. Thank you, gentlemen.

Mr. RHODES. Mrs. Graves, do you desire to make a statement? If you desire to be heard you had better be heard now, because we have no assurance that this committee will be again called together for this purpose. I think we had better go into executive session.

(Whereupon the committee went into executive session.)

(The bill reads as follows:)

AN ACT To provide for the allotment of lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and directed to cause to be allotted the surveyed lands and such unsurveyed lands as lie north of the line between townships five and six south, together with such unsurveyed lands contiguous to those now surveyed and within two miles therefrom as the commission hereinafter provided for may find to be suitable for allotment, within the Crow Indian Reservation in Montana, not herein reserved as hereinafter provided, among the members of the Crow Tribe, as follows, namely, one hundred and sixty acres to the heirs of every enrolled member, entitled to allotment, who died unallotted after December 31, 1905, and before the passage of this act; next, one hundred and sixty acres to every allotted member living at the date of the passage of this act, who may then be the head of a family and has not received allotment as such head of a family; and thereafter to prorate the remaining unallotted allotable lands and allot them so that every enrolled member living on the date of the passage of this act and entitled to allotment shall receive in the aggregate an equal share of the allotable tribal lands for his total allotment of land of the Crow Tribe. Allotments made hereunder shall vest title in the allottee subject only to existing tribal leases, which leases in no event shall be renewed or extended by the Secretary of the Interior after the passage of this act, and shall as hereinafter provided be evidenced by patents in fee to competent Indians, except as to homesteads as hereinafter provided, but by trust patent to minors and incompetent Indians, the force and legal effect of the trust patents to be as is prescribed by the general allotment act of February 8, 1887 (Twenty-fourth Statutes, page 388). Priority of selection, up to three hundred and twenty acres, is hereby given to the members of the tribe who have as yet received no allotment on the Crow Reservation, and thereafter all members enrolled for allotment hereunder shall in all respects be entitled to equal rights and privileges, as far as possible, in regard to the time, manner, and amount of their respective selections: *Pro-*

vided, That Crow Indians who are found to be competent may elect, in writing, to have their allotments, except as herein provided, patented to them in fee. Otherwise trust patents shall be issued to them. No patent in fee shall be issued for lands of a husband unless the wife joins in the application, who shall be examined separately and apart from her husband and a certificate of the officer taking her acknowledgment shall fully set forth compliance with this requirement.

SEC. 2. No conveyance of land by any Crow Indian shall ever be authorized or approved by the Secretary of the Interior to any person who owns at least six hundred and forty acres of land within the present boundaries of the Crow Indian Reservation and any conveyance by any such Indian made either directly or indirectly to any such person of any land within said reservation as the same now exists, whether held by trust, patent, or by patent in fee, shall be void, and the grantee accepting the same shall be deemed guilty of a misdemeanor and be punished by a fine of not more than \$5 000 or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 3. That the Secretary of the Interior shall, as speedily as possible, after the passage of this act, prepare a complete roll of the members of the Crow Tribe who died unallotted after December 31, 1905, and before the passage of this act; also, a complete roll of the allotted members of the tribe who at the date hereof are living and are heads of families but have not received full allotments as such; also, a complete roll of the unallotted members of the tribe living six months after the approval of this act who are entitled to allotments. Such rolls when completed shall be deemed the final allotment rolls of the Crow Tribe, on which allotment of all tribal lands and distribution of all tribal funds existing at said date shall be made. The rolls shall show the English, as well as the Indian, name of the allottee; the age, if living; the sex, whether declared competent or incompetent; the description or descriptions of the allotments; and any other fact deemed by the Secretary of the Interior necessary or proper. Said rolls shall be completed within one year after the approval of this act.

SEC. 4. That any names found to be on the tribal rolls fraudulently, may, upon request of the tribal council, at any time within one year from the passage of this act, be stricken therefrom by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, after giving all parties in interest a full opportunity to be heard in regard thereto; and any allotment made to such fraudulent allottee shall be canceled and shall then be subject to disposition under the provision of this act: *Provided*, That nothing herein contained shall be construed to deprive any such persons of the protection in the premises provided under existing law.

SEC. 5. That such of the unallotted lands as are now used for agency, school, cemetery, or religious purposes shall remain reserved from allotment so long as such agency, school, cemetery, or religious institutions, respectively, are maintained for the benefit of the tribe: *Provided*, That the Secretary of the Interior, upon the request of the tribal council, is hereby authorized and directed to cause to be issued a patent in fee to the duly authorized missionary board or other proper authority of any religious organization heretofore engaged in mission or school work on the reservation for such lands thereon as have been heretofore set aside and are now occupied by such organizations for missionary or school purposes: *Provided further*, That not more than six hundred and forty acres may be reserved for administrative purposes at the Crow Agency, and such land shall be definitely described and made a matter of record by the Indian Office.

SEC. 6. That any and all minerals, including oil and gas, on any of the lands to be allotted hereunder are reserved for the benefit of the members of the tribe in common and may be leased for mineral purposes, upon the request of the tribal council under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, but no lease shall be made for a longer period than ten years, but the lessees shall have the right to renewal thereof for a further period of ten years upon such terms and conditions as the Secretary of the Interior may prescribe: *Provided, however*, That allotments hereunder may be made of lands classified as valuable chiefly for coal or other minerals, which may be patented as herein provided with a reservation, set forth in the patent, of the coal, oil, gas, or other mineral deposits for the benefit of the Crow Tribe: *And provided further*, That at the expiration of fifty years from the date of approval of this act, the coal, oil, gas, or other mineral deposits upon or beneath the surface of said allotted lands shall become the property of the individual allottee or his heirs.

SEC. 7. That there is hereby appropriated the sum of \$50,000, or so much thereof as may be necessary, from any funds in the Treasury of the United States to the credit of the Crow Tribe of Indians not otherwise appropriated, for the purpose of making the surveys and allotments and for other expenses provided for herein.

SEC. 8. That any allotment, or part of allotment, provided for under this act, irrigable from any irrigation system now existing or hereafter constructed by the Government on the said reservation, shall bear its pro rata share, computed on a per acre basis, of the cost of constructing such system: *Provided*, That no additional irrigation system shall be established or constructed on the Crow Reservation until the consent of the tribal council thereto has been duly obtained. All charges against allotments authorized by this section may be reimbursed in not less than twenty annual payments, and the Secretary of the Interior may fix such operation and maintenance charges against such allotments as may be reasonable and just, to be paid as provided in rules and regulations to be prescribed by him. Unless otherwise paid, these latter charges may be paid from or made a charge upon his individual share of the tribal fund, when said fund is available for distribution; and if any allottee shall receive patent in fee to his allotment before the amount so charged against his land has been paid, such unpaid amount shall become and be a lien upon his allotment, of which a record shall be kept in the office of the superintendent of the reservation at the agency; and should any Indian sell any part of his allotment, with the approval of the Secretary of the Interior, the amount of such unpaid charges against the land so sold shall remain a first lien thereon, and may be enforced by the Secretary of the Interior by foreclosure as a mortgage. All expenditures for irrigation work on the Crow Reservation, Montana, heretofore or hereafter made, are hereby declared to be reimbursable under such rules and regulations as the Secretary of the Interior may prescribe and shall constitute a lien against the land benefited, regardless of ownership, and including all lands which have heretofore been sold or patented. All patents or other instruments of conveyance hereafter issued for lands under any irrigation project on the said Crow Indian Reservation, whether to individual Indians or to purchasers of Indian land, shall recite a lien for repayment of the irrigation charges, if any, remaining unpaid at the time of issuance of such patent or other instrument of conveyance, and such lien may be enforced or, upon payment of the delinquent charges, may be released by the Secretary of the Interior. In the case of lands under any project purchased in the bona fide belief on the part of the purchaser that by his purchase he acquired a right to have water from the system for the irrigation of the land purchased by him in the same manner as the Indian owner, the Secretary may, after notice to the Indians interested, determine the value of the land at the time of the purchase from the Indian, and give to the purchaser or his assigns credit on the charge for construction against the land to the amount of the difference between the price paid and the value as so determined, and shall withhold for the benefit of the tribe from the Indian or Indians of whom the purchase was made, an equal amount from any funds which may be due or distributable to them hereunder. Delivery of water to such land may be refused, within the discretion of the Secretary of the Interior, until all dues are paid: *Provided*, That no right to water or to the use of any irrigation ditch or other structure on said reservation shall vest until the owner of the land to be irrigated shall comply with such rules and regulations as the Secretary of the Interior may prescribe, and he is hereby authorized to prescribe such rules and regulations as may be deemed reasonable and proper for making effective the foregoing provisions: *Provided, however*, That in no case shall any allottee be required to pay either construction, operation, or maintenance charges for such irrigation privileges, or any of them, until water has been actually delivered to his allotment: *Provided further*, That the Secretary of the Interior shall cause to be made immediately, if not already made, an itemized statement showing in detail the cost of the construction of the several irrigation systems now existing on the Crow Indian Reservation separately, the same to be placed at the Crow Agency, and with the Government farmers of each of the districts of the reservation, for the information of the Indians affected by section 7 of this act.

SEC. 9. The lands within said reservation, whether allotted, unallotted, or otherwise disposed of, shall be subject to all laws of the United States pro-

hibiting the introduction of intoxicating liquors into the Indian country until otherwise provided by Congress.

SEC. 10. That any unallotted lands on the Crow Reservation chiefly valuable for the development of water power shall be reserved from allotment or other disposition hereunder, for the benefit of the Crow Tribe of Indians: *Provided*, That such lands shall not be leased or otherwise disposed of without the consent of the tribal council.

SEC. 11. That so much of article 2 of the act of April 27, 1904, entitled "An act to ratify and amend an agreement with the Indians of the Crow Reservation in Montana, and making appropriations to carry the same into effect" (Thirty-third Statutes, page 353), as relates to the disposition of the trust funds of the tribe at the expiration of the fifteen-year period named in the act, to the purchase of cattle, to the distribution of cattle among the Indians of the reservation, to the purchase of jackasses, stallions, and ewes, to the building of fences, the erection of schoolhouses and hospitals, the purchase of additional cattle or sheep, the construction of ditches, dams, and canals, and to the establishment of a trust fund for the benefit of the Crow Indians thereunder, be, and the same is hereby, repealed: *Provided*, That all remaining trust funds arising under the terms of said agreement, or otherwise, with such interest thereon as may now be due, shall be set aside and draw interest at the rate of 4 per centum per annum until the same are distributed as provided by law: *Provided further*, That the Secretary of the Interior is hereby authorized to permit competent Indians who have received patents in fee and other Indians who have demonstrated their ability to properly care for live stock to withdraw their pro rata share of cattle out of the tribal herd within one year after the approval of this Act, under such rules and regulations as the Secretary of the Interior may prescribe and on condition that said Indians shall execute a stipulation relinquishing all their right, title, and interest in said tribal herd thereafter: *Provided further*, That any Indian who has received his share of stock in accordance with the above provision and who has also demonstrated his ability to properly care for and handle live stock may also be permitted to withdraw the pro rata shares of his wife and minor children under the same rules and regulations as applied to the stock already issued to him and on condition that such cattle be branded with the individual brands of his wife and minor children, which shall be recorded in the names of the respective members of his family. It shall be the duty of the superintendent of the Crow Reservation to observe closely the manner in which such stock are handled and cared for, and in case of failure or neglect to properly care for the same the Secretary of the Interior is authorized to take charge of such shares and sell them for the benefit of the individual owners, to whose credit the proceeds of the sale shall be placed, or return them to the tribal herd or handle them with tribal cattle for the minor or incompetent owners and charge a fee to cover the cost of caring for them.

SEC. 12. That upon the approval of this act the Secretary of the Interior shall forthwith appoint a commission consisting of three persons to complete the enrollment of the members of the tribe as herein provided for, and to divide them into two classes, competents and incompetents, said commission to be constituted as follows: Two of said commissioners shall be enrolled members of the Crow Indian Tribe and shall be selected by a majority vote of three delegates from each of the districts on the Crow Reservation; and one commissioner shall be a representative of the Department of the Interior, to be selected by the Secretary of the Interior. Said commission shall be governed by regulations prescribed by the Secretary of the Interior, and the classification of the members of the tribe hereunder shall be subject to his approval. That within thirty days after their appointment said commissioners shall meet at some point within the Crow Indian Reservation and organize by the election of one of their number as chairman. That said commissioners shall then proceed personally to classify the members as above indicated. They shall be paid a salary of not to exceed \$10 per day each, and necessary expenses while actually employed in the work of making this classification, exclusive of subsistence, to be approved by the Secretary of the Interior, such classification to be completed within six months from the date of organizing the commission.

SEC. 13. That every member of the Crow Tribe shall designate as a homestead six hundred and forty acres, already allotted or to be allotted hereunder, which homestead shall remain inalienable for a period of twenty-five years from the date of issuance of patent therefor, or until the death of the allottee:

Provided, That the trust period on such homestead allotments of incompetent Indians may be extended in accordance with the provisions of existing law: *Provided further*, That any Crow Indian allottee may sell not to exceed three hundred and twenty acres of his homestead, upon his application in writing and with the approval of the Secretary of the Interior, under such rules and regulations as he may prescribe: *And provided further*, That said land to be sold by said Indian allottee shall not exceed more than one-half of his irrigable nor more than one-half of his agricultural land and shall not include the improvements consisting of his home.

SEC. 14. The exchanges of allotments by and among the members of the tribe may be made under the supervision of the Secretary of the Interior with a view to enabling allottees to group their allotted lands on the Crow Reservation, but always with the due regard for the value of lands involved. And in cases where patents have already been issued for such allotments proper conveyance shall be made back to the United States by the allottee, whereupon the land shall become subject to disposition in the same manner as other lands under the provisions of this act.

SEC. 15. That the Secretary of the Interior be, and he is hereby, authorized to sell allotted and inherited Indian land held in trust by the United States on the Crow Reservation, Montana, with the consent of the Indian allottee or the heirs, respectively, to any soldier, seaman, or marine who served under the President of the United States for ninety days during the late war against the Imperial German Government, or in any war in which the United States was engaged with a foreign power, or in the Civil War, who will actually settle on said land, on annual payments covering a period not to exceed twenty years, as may be agreed upon under such rules, regulations, and conditions as the said Secretary of the Interior may prescribe and in accordance with the provisions of this act.

SEC. 16. That there is hereby granted to the State of Montana for common-school purposes sections sixteen and thirty-six, within the territory described herein, or such parts of said sections as may be nonmineral or nontimbered, and for which the said State has not heretofore received indemnity lands under existing laws; and in case either of said sections or parts thereof is lost to the State by reason of allotment or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other unoccupied, unreserved, nonmineral, nontimbered lands within said reservation not exceeding two sections in any one township. The United States shall pay the Indians for the lands so granted \$5 per acre, and sufficient money is hereby appropriated out of the Treasury of the United States not otherwise appropriated to pay for said school lands granted to the said State: *Provided*, That the mineral rights in said school lands are hereby reserved for the benefit of the Crow Tribe of Indians as herein authorized: *Provided further*, That the Crow Indian children shall be permitted to attend the public schools of said State on the same condition as the children of white citizens of said State.

SEC. 17. That the Secretary of the Interior (with the approval of the Crow Tribal Council) is authorized to set aside for administrative purposes (at the Crow Agency and at Pryor subagency) such tracts for town-site purposes as in his opinion may be required for the public interests, not to exceed eighty acres at each town site, and he may cause the same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is authorized also to set apart and reserve for school, park, and other public purposes not more than ten acres in said town sites; and patents shall be issued for the lands so set apart and reserved for school, park, and other purposes to the municipality or school district legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites shall be paid at such time and in such installments as the Secretary of the Interior may direct.

SEC. 18. That the sum of \$10,000, or so much thereof as may be necessary, of the tribal funds of the Crow Indians of the State of Montana, is hereby appropriated to pay the expenses of the general council, or councils, or business committee, in looking after the affairs of said tribe, including the actual and necessary expenses and the per diems paid its legislative committee when visiting Washington on tribal business at the request of the Commissioner of Indian Affairs or a committee of Congress, said sum and the actual and necessary expenses to be approved by and certified by the Secretary of the Interior, and, when so approved and certified, to be paid.

STATEMENT OF DR. ORLANDO DUCKER.

To the Chairman and Members of the Committee on Indian Affairs of the House of Representatives.

HONORABLE SIRs: In compliance with the privilege you kindly accorded us November 5, we again urge that you give consideration to the soldiers, seamen, and marines in the matter of preference, in the event you indorse the opening of the Crow Indian Reservation for settlement, as per Senate bill No. 2890, then under consideration, and believing you will show the same patriotic feeling toward them now as you did when they answered the call of their country, we herewith respectfully submit to your honorable body an amendment which we believe to be just and equitable, and trust it will be adopted.

Very sincerely, yours,

ORLANDO DUCKER,

Executive Secretary of the Mid-European Union.

WASHINGTON, D. C., November 8, 1919.

PROPOSED AMENDMENT TO SENATE BILL NO. 2890, NOW BEFORE THE HOUSE
COMMITTEE ON INDIAN AFFAIRS.

The Secretary of the Interior be, and is hereby, authorized and directed, to sell unallotted, allotted, or inherited Indian land of the Crow Indian Reservation, that is now or may be held in trust by the United States, that is or may be subject to sale or otherwise to be disposed of under and by virtue of this or any existing act or hereafter enacted law, governing said reservation, to any soldier, seaman, or marine, who served under the President of the United States for ninety days during the late war with the Imperial German Government or the cobelligerents of the same or in any war in which the United States was engaged with a foreign power or in the Civil War, who signifies a willingness to settle on said land, shall have ninety days priority over and above all others, from and after the publication of this act, in which to select, locate, and apply for the land of his selection on said Crow Indian Reservation and to make his initial payment thereon of one-twentieth of the actual cost of said land. It is expressly provided that the said soldier, seaman, or marine who may so select and make his initial payment as provided herein, shall within twelve months thereafter actually settle on said land and become a bona fide settler on the same, shall have the right and privilege to pay annually thereon thereafter one-twentieth of the original purchase price of said land until the amount is fully paid. Failure to comply with the stipulations herein shall work a forfeiture of all money paid and all rights and privileges herein, and the money paid shall be credited to the tribal fund of the Crow Indians.

CHIPPEWAS OF MINNESOTA

HEARINGS

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

SECOND SESSION

FROM JANUARY 21 TO MARCH 22, 1920

COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

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PHILIP P. CAMPBELL, *Kansas.*

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CHIPPEWAS OF MINNESOTA.

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, January 21, 1920.

The subcommittee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. A majority of the subcommittee being present, we are called together for the purpose of discussing H. R. 9924, known as a bill to aid in the winding up of the affairs of the Chippewa Indians of Minnesota. The bill was introduced by Mr. Knutson, also H. R. 6461 by Mr. Ellsworth. Mr. Ellsworth is here and will open the hearing. At this time I would like to ask Mr. Ellsworth if he has any idea of the amount of time he will consume with his remarks in opening the hearing.

STATEMENT OF HON. FRANKLIN F. ELLSWORTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA.

Mr. ELLSWORTH. In reply to that I will say to the committee and all here interested in these affairs that we should have a full hearing upon this matter. A matter as technical as this would require a good deal of time, but I shall not attempt to play the rôle of one entirely familiar with the technical matters, that, of course, would be required to properly explain this bill. My own statement will be very short, feeling that the time should be put in with the testimony of the general counsel and Mr. Meritt. I shall not attempt to go into technical matters.

The CHAIRMAN. Will you give us a general idea of why this legislation should now be taken up?

Mr. ELLSWORTH. I will attempt to do so. The present bill was introduced by Mr. Knutson, but there is another bill, H. R. 6461, which I have introduced.

Mr. HAYDEN. Is it your intention to press your bill?

Mr. ELLSWORTH. Yes. I suppose some description should be made of the physical conditions as they exist at the present time in northern Minnesota. In 1889 there was passed the act of January 14, 31 years ago this month, and it was expected at that time by those interested in the affairs of the Chippewa Indians that the passage of that act would go a long ways toward finally winding up all the affairs of the tribe; that is, that every member of the tribe in Minnesota would be allotted lands and that the land and timber included on lands, including swamp lands, agricultural lands, and timber lands, would finally all be disposed of and put in the funds of the Treasury and paid out to the members of the tribe. That was 31 years ago. Present conditions, as near as I can learn in the short

time, are these: That out of some 11,000 or 12,000 Chippewa Indians in Minnesota, approximately that, probably 25 or 30 per cent of these have severed their relations, not with the tribe, but have gone into other States and quit the business of being Indians so that perhaps two-thirds are now residents of Minnesota, yet practically 11,000 or 12,000 Chippewa Indians have been provided for each year in annual appropriations out of the principal fund now held in the Treasury for the benefit and in trust for the Indians, probably 90 per cent of those Indians are as competent as are the white people of Minnesota. Following the agreement of 1889, which was ratified by the several bands, and therefore by all the Chippewas, and became in fact an agreement. By that agreement it was provided that the lands should be classified exclusively as timber and agricultural lands and members of the tribe given allotments out of the land.

The Chippewa Indians ceded all they then claimed in Minnesota to the United States, a sufficient amount being held back to make allotments on the White Earth and Red Lake Reservations on the lands ceded those who so desire could take their allotments on land where they were then living if they wished, but all the lands unallotted to the individual members of the tribe were to be disposed of, the amount received to be paid into the Treasury in trust for the Indians and all other amounts received for lands sold under the homestead or other acts to be put into the Treasury in trust for the Indians. The present situation is that instead of being administered for all alike, the Red Lake band of Chippewas, of which there are about 1,500, have received certain special benefits out of that part which was to be held in reserve in the Red Lake Reservation over and above the benefits received by all other members of the tribe from the general fund.

The CHAIRMAN. Was that by reason of allotments or sales?

Mr. ELLSWORTH. By reason of sales. The greater part of the lands ceded to the Government was sold elsewhere than on Red Lake and was put into the Treasury and went to the benefit of all. Now, this is not solely a contest between the Red Lake and the Chippewa Indians at all. The Red Lake Indians are perhaps more in need of legislation of this kind than the others because they are less advanced, because they have been kept segregated; kept and held as Indians, while the Indians on the White Earth Reservation are perhaps no different from white people in that section of the State. In fact, their people intermingle with the whites and you can not tell when you get on the White Earth Reservation or off it, so alike are they except in so far as Indian affairs are concerned. But on the Red Lake Reservation they still live as reservation Indians, and I believe instead of making progress, from what I have been told, instead of making progress they are in a state of retrogression. There are about 1,500 of them, and because of the effect of the control of the Indian Bureau—I am not criticizing the Indian Bureau at all, because I think they are honest in their purpose—something should be done for these Red Lake Indians.

The CHAIRMAN. Now, Mr. Ellsworth, I want to get this into the record through you. What part of the Chippewa Indians does this delegation here this morning represent? There are apparently two sides of this question, and have always been since I have known anything about Indian affairs. Now, what part of the Chippewa

Indians does this delegation here this morning represent? Tell us about that, will you?

Mr. ELLSWORTH. There has been some contention in years past about the authority of certain members to represent the tribe. There was a time at which, as I understand it, the bureau disputed the authority of those who now constitute the general counsel of the Chippewa Indians to represent the majority of those who constituted the council or their predecessors. It is my understanding that last summer they were specifically recognized by letter from Hon. Cato Sells, Commissioner of Indian Affairs, as having authority to represent the Chippewa Indians in tribal affairs. Now, just as prior to an election anywhere else in our country, there were certain factions against those who are elected, as it should be if it is a true and free democracy.

The CHAIRMAN. You stated that the Chippewa Indians approximate about 12,000. Now, what part of that 12,000 does this delegation here this morning represent?

Mr. ELLSWORTH. Do you mean by that how many participated in the election?

The CHAIRMAN. Not only those who participated, but those who participated and represent somebody.

Mr. ELLSWORTH. I should say they represent the whole Chippewa tribe. These men represent all the Chippewas.

The CHAIRMAN. The reason I asked this question is that there is another party to this question who have asked for a hearing.

Mr. ELLSWORTH. There is absolutely no objection to any one who takes an interest in Indian affairs in Minnesota having a full hearing.

The CHAIRMAN. Then this committee, as I understand it, this delegation appearing here this morning represents the full band, and is appearing here represented by counsel and this committee is supposed to listen to them with the thought and belief that they are the legally elected representatives of the Chippewas? You stated a few moments ago that there was no contest between the Red Lake Band and other bands of Chippewa Indians. Is there any contest between any of the bands, or is there any contest at all on this legislation?

Mr. ELLSWORTH. I should not have stated that there is no contest. What I intended to say was when I spoke of this matter of contest between the bands, that that was primarily the purpose of this legislation.

Mr. ELSTON. Has the Minnesota delegation in Congress agreed upon this legislation?

Mr. ELLSWORTH. I can not say.

The CHAIRMAN. Are all these gentlemen here this morning on one side of the case or on two sides?

Mr. ELLSWORTH. I can not tell you that until they testify; I do not know.

The CHAIRMAN. We are here this morning for the purpose of listening to the duly elected representatives of the Chippewa Indians. The other side, if there is another side, it will be heard later.

Mr. ELSTON. How much is involved in this claim, Mr. Ellsworth?

Mr. ELLSWORTH. There are many, many different things. If you will allow me to proceed, this was not a matter of contest between the two bands, but a matter of settling their estate and referring to

the Court of Claims for determination their claims against the Government. The general purpose of this legislation is this: To take all the tribal lands and all the lands ceded remaining unsold and dispose of them; to settle all contested claims between the different bands of Chippewas; all claims between the United States Government and the Chippewas; and all claims between the United States and the State of Minnesota and to wind up as nearly as possible all the affairs of the Chippewa Indians and put them out in the world on their own responsibility, giving them what money is coming to them and having them look out for themselves in the future. It contemplated the naming of a commission; one to be named by the President of the United States; one by the Secretary of the Interior, and one by the general counsel of the Chippewa Indians. That commission which is provided for to be appointed in this bill is first to make rolls of the Chippewa Indians and add to the rolls all those who ought to have their names on the rolls and entitled to an allotment of land or to participate in the division of the trust funds held by the United States for the Indians, which contemplates children born since, and whose names are not on the rolls. They would first regularly do all this outside the Red Lake Band, and as there has never been an authentic roll of the Red Lake Band at all, would make a roll of the Red Lake Band and show who are entitled to receive the benefits when the allotments are made.

Mr. CARTER. There has never been any roll of the Red Lake Chippewas?

Mr. ELLSWORTH. There has been but it is not complete.

Mr. CARTER. They are operating at present under a treaty which expires in 50 years?

Mr. ELLSWORTH. Yes.

Mr. CARTER. Can you give a citation of that agreement?

Mr. ELLSWORTH. January 14, 1889, Nelson act. Then this commission is to make a roll of the incompetents. A great objection to winding up Indian affairs has always been this, and there is good reason to believe it might occur; an incompetent Indian parts with his land for little or nothing. It gets into the hands of white men and opens the way for fraud. That is the great objection, if there is any objection, and so in this bill it is attempted to provide against fraud and require that this commission of three make a roll of the incompetent Indians, children, etc., and to make allotments to the rest of the Indians and then to the incompetent Indians. After doing that they are supposed to prepare a list of the incompetent Indians to provide against fraud and file the list with the Bureau of Indian Affairs and a certified copy of that list in every recording office in each county where allotments are made so that everyone who deals in the Indian land can obtain a record in the county in which the said list is filed and so learn whether or not the Indian is an incompetent and so be put upon his guard. It provides a precaution where they have been adjudged competent afterwards and seek to convey, and in order to convey they must have an acknowledgement before a notary, or a court of record, so that someone having authority would be on record as to the validity and bona fides of the proposed transaction. Then as to schools this bill provides—now the present situation is that under the agreement of 1889 most of the timber lands sold and most of the money at interest yields about \$300,000.

or 5 per cent per annum, and of that one-fourth is to be devoted entirely to school purposes.

It is not the desire in this bill that while providing—and I might speak of the other first, as it provides \$300 to be set aside and paid to them individually at this time or within a short time after this bill becomes a law—it is not the desire that the schools shall in any way suffer. It is believed that if you take away the Indian schools, the Indian in one year or two years would be assimilated in the public schools of America, no doubt, and there is no objection anywhere to their going into the public schools and it would probably make better citizens of them. It is not the desire of this bill to take away from the bureau their right to the \$75,000, which is the amount provided under the act of 1889 for the benefit of the schools. It also provides that those amounts which may be taken for schools shall be one-fourth of all of the interest on funds left in the Treasury and in addition to that amount a fair share of the principal if not sufficient to make up the \$75,000. Then this bill in addition proposes that the school buildings and school property be transferred to the State of Minnesota, the State of Minnesota to take care of the school business. Now, up in that country you will find in the reservations large bodies of reservation lands which should be disposed of, and this bill provides for the selling of all timber and agricultural lands and the payment of \$300 per capita, to be paid to the individual Indians. They propose that town sites be platted; not to exceed 320 or 640 acres, and those who now have improvements on what is to be platted have six months preference to buy the lot; thus providing for the maintaining of villages now established in that country. This bill carries an appropriation of \$15,000 for the general council for the work they do. It is worth that, and if it was provided that they receive \$15,000 each it would not be sufficient to compensate them for the work done in supervising all this work in behalf of their tribe.

The CHAIRMAN. That is outside this commission?

Mr. ELLSWORTH. Yes; outside the commission itself. Now, the courts must determine the ownership of the swamp lands. The surveyor general, in making the surveys, mapped the land as agricultural, swamp, and timber lands, and included probably 1,400,000 acres as swamp lands, much of which was agricultural and timber. Under the swamp-land donation act of 1860, upon application the State of Minnesota procured 700,000 acres of which I have forgotten the features, but Mr. Ballinger will explain that point. It is proposed here to authorize the Attorney General of the United States to institute suit against the State of Minnesota to recover the swamp lands patented by the United States to that State, or the value of the lands sold. Then it is proposed to refer to the Court of Claims and give jurisdiction to the Court of Claims to determine and make an accounting between the Government and the Chippewa Indians of the amount taken out of the Chippewa funds for the alleged purpose of support and civilization; to determine what such moneys have been devoted to support and civilization, and make an accounting between the Government and the tribe of the amounts devoted to other purposes which, under the act, were not actually for support or civilization. It is then proposed also to refer to the Court of Claims all other claims. It then provides for the determination of the ownership of the funds received from the sale of property on the Red

Lake Reservation, and holds these funds apart from the general funds that go to all others, including the Red Lake, and for a general accounting between all the Chippewas and especially between the Red Lake Band and the other Chippewas. It then provides general jurisdiction and proposes to refer to the Court of Claims all claims arising out of all transactions had between the Government and the Indians.

The CHAIRMAN. A blanket authority to sue for anything?

Mr. ELLSWORTH. I would not say that, because I do not think that anything of that kind will be needed. It is authority to get a general accounting for the tribe of all things concerning their lands and tribal funds, especially between the Government and the tribe, the State and the tribe, and the State and the Government.

The CHAIRMAN. Would it be possible to define in the bill these items for each individual claim to be put in?

Mr. ELLSWORTH. I think the authority given covers that now.

Mr. ELSTON. Was this bill drawn up under the direction of the Indian Bureau?

Mr. ELLSWORTH. No. I am glad you asked that question. It is perfectly apparent that there is not a single man in Minnesota to-day who thoroughly understands the Chippewa Indian affairs. It is perfectly apparent that outside the Indian Bureau, and aside from Mr. Ballinger down here in Washington, no one can give all the technicalities which have to do with the Chippewa Indian affairs in Minnesota and the history of the tribe and the litigation going on before 1889 and all the regulations and rulings of the Indian Bureau. I would not attempt for a minute to say I could thoroughly explain all these things.

The CHAIRMAN. I wish you would read section 9.

Mr. ELLSWORTH. Section 9 reads as follows:

That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all lands and timber thereon ceded to the United States in trust under the provisions of the act of January 14, 1889 (25 Stat. L., p. 642), and which were subsequently patented to the State of Minnesota upon the erroneous assumption by the administrative officers of the United States that the State was entitled thereto under the provisions of the laws of the United States relating to the donation of swamp and overflowed lands to certain States, and the moneys recovered from the State of Minnesota shall be deposited in the principal fund of the Chippewa Indians of Minnesota standing to their credit in the Treasury of the United States.

The rest simply provides how suit shall be instituted, the scope of it is very narrow, simply provides for the institution of any suit by the Chippewa Indians against the Government.

The CHAIRMAN. It must be within that agreement?

Mr. ELLSWORTH. Yes, sir; it must be within the agreement. I have a petition here which I would like to submit at this hearing. This petition is signed by Indian boys who were in France helping fight the battles of this country, and I must confess that while introducing a petition of this kind is entirely aside from argument or debate on the merits of the proposition, that this feature does appeal to me. That if from the body politic these boys or men of the Chippewa Indians of Minnesota took their places with the rank and file of the citizens of this country to help fight its battles, if they want to receive the benefits of what we say is the great democracy, it seems to me that here and now in this committee of the House of

Representatives is as good a place as any I know of to demonstrate it and give to these boys, their fathers and mothers, some possible chance of building up an independent citizenship.

The CHAIRMAN. Of course, the gentleman knows that during the last session a bill became a law giving all these soldiers who went to war the right to become citizens.

Mr. ELLSWORTH. Yes; and it is very commendable. But for the future I suggest we give them the property that belongs to them.

The CHAIRMAN. Does not that follow?

Mr. ELLSWORTH. I think it does; but we had to come to Congress to get it.

The CHAIRMAN. I would like to say here for the record, and also for those present, that a couple of representative Indians have called on me and stated they had no knowledge of the fact that any such law existed, and were quite surprised to find out that there was such a law; and I would like just for a moment to ask Mr. Meritt if there is anything done by the bureau to notify these Indians they were eligible under that bill?

Mr. MERITT. Yes, sir. We wrote a letter to each superintendent in charge of the reservations and schools in regard to the legislation passed by Congress and directed them to make it known to the Indians.

Mr. ELLSWORTH. In closing I wish to say that I think we have a very representative gathering here of Chippewas, their counsel, and Indian committee, and I think it really omens a favorable beginning of the winding up of not only the Chippewa Indian affairs, but all Indian affairs in general everywhere in the United States where it can be done without detriment to the incompetent Indian. I think it is to the interest of the Members of the House who belong to the committee to see to it that efforts are commenced to wind up the affairs of the Indian and put him on his own responsibility and make him an American citizen. I believe it was a mistake of the past in prolonging the control; it is a mistake anywhere, and that is not a criticism of individuals at all. It is a fact that individuals come to believe that the work is of itself of primary importance and the thing which it proposes to accomplish of secondary importance and lost sight of.

Mr. CARTER. Did you say that the act you referred to was that of January 14, 1889?

Mr. ELLSWORTH. Yes, sir.

Mr. CARTER. No. 25642, is that it?

Mr. ELLSWORTH. I think so.

Mr. CARTER. I notice that there is a provision for the adoption of certain provisions of the act by two-thirds of the tribe, in the first paragraph of the act; was that done?

Mr. ELLSWORTH. Yes, sir; by all.

Mr. CARTER. I notice in section 7 you have a provision of what should be done with these finds for 50 years after the date of the passing of the act, which was an agreement; are you familiar with that?

Mr. ELLSWORTH. Yes; I am familiar with that. I want to call your attention to the fact that section 10 of the Knutson bill provides that sections 3, 4, 5, 6, and 7 of this act shall be binding upon the Chippewa Indians of Minnesota when accepted by their General

Council, and without such action said sections shall not be operative. But regardless of that I would answer that question this way: If by violating one-tenth as many agreements you wind up the affairs and give to the Indians the best that we can ascertain that they are entitled to what belongs to them, if by one-tenth of the violations of the treaty we can do that, and can wind it up, I should be willing as far as I am concerned, to violate it where there is no damage and no injury.

The CHAIRMAN. You think that the revocation of the treaty now would be a violation instead of a modification?

Mr. ELLSWORTH. I would say that it would be a boon to 11,000 or 12,000 persons who belong to the Chippewa Tribe, and it would be a godsend. I do not know what you would call it legally. It might be a modification. I should say though that we ought not to stop at a proposition of legal technicality in this connection, if by doing this we can wind up these affairs and get rid of this expense of administering their affairs.

Mr. HAYDEN. In other words, you assert that the same authority that made the treaty can modify it?

Mr. ELLSWORTH. Yes, sir; it is answered by that.

Mr. HAYDEN. If two-thirds of the Chippewa Indians now living wish to alter or amend the treaty, it seems to me that they have the same rights as two-thirds of the Indians had in 1889, at the time the original treaty was made.

Mr. ELLSWORTH. In other words, if you and I make an agreement, we can mutually modify it?

Mr. CARTER. Yes, the tribe may modify the agreement also, provided two-thirds of their people agree to it.

Mr. ELLSWORTH. I say I am not urging that, as it is simply a legal technicality.

Mr. CARTER. First and last, a great many of these Chippewas appeared before the committee——

Mr. ELLSWORTH (interposing). Also those in which the allotments were given——

Mr. CARTER (interposing). I have seen very few who came before this committee who did not seem perfectly competent. It may be that they only select the competent ones to come before the committee, but many of those who have appeared before the committee certainly have been entitled to settlement and to be relieved of the supervision of the Government. We should do that, and I want to help to do it; but we should do it in some such manner, if it can be done, as to prevent any claims coming back upon the Federal Government of those who may not yet have been born.

Mr. ELLSWORTH. I am sure that there is absolutely no objection to incorporating in this bill by way of an amendment any kind of a provision that will accomplish that thing, so far as it can physically be done.

The CHAIRMAN. Is it physically possible to-day to provide the same machinery for modifying this section referred to now in operation as it was when it was put into effect?

Mr. ELLSWORTH. There is this, Mr. Chairman: It is not physically possible for us to make any provision against strangers who never had a drop of Indian blood in their veins, who might drift in and say, "I was a member," and commence suit against the Government, and it will never be possible——

Mr. CARTER. That is not material. If they are not Indians they are not entitled to enrollment, and they are denied enrollment.

Mr. ELLSWORTH. That ought to be defined in the law.

Mr. CARTER. But we agreed here in the act of 1889 that we would settle this thing as of a certain date 50 years after January 14, 1889. Now, whenever you divide those funds other than in the way in which you have agreed, the Indian tribe will have a claim, a moral claim, and probably an equitable claim, those who are born hereafter, to a division in those funds.

Mr. ELLSWORTH. Those born hereafter will have a right to be put on the rolls. This commission will put them on the rolls and they will be included under its provision.

Mr. CARTER. How long is it until the expiration of this time?

The CHAIRMAN. There are 31 years which have elapsed. It will be in 1939.

Mr. ELLSWORTH. Now you are talking about those who are born hereafter.

Mr. CARTER. Born during this 50-year period.

Let me ask you this question, Mr. Ellsworth: What are you going to do about those who are living now and die before that time; are you going to have some kind of an agreement or modification with reference to them?

Mr. ELLSWORTH. This bill, I think, will certainly protect them and we ought to provide legislation to protect them.

The CHAIRMAN. Do you think we ought to go too far in looking after the unborn?

Mr. CARTER. I think that it is necessary to look after that question. It is very necessary to do that, because we have seen similar cases result in claims against the Government.

Mr. ELLSWORTH. I would make this apply.

Mr. SINCLAIR. Are not the conditions, Mr. Carter, surrounding this case just the same as they are in a will case? Suppose that you have a trust created for those, could that not be done in that way?

Mr. CARTER. It could be done for those born up to that time.

The CHAIRMAN. It is a very simple matter to readjust this thing. We can provide to take care of just such cases as that which might possibly come up.

Mr. ELLSWORTH. I do not think that there would be any objection or any difficulty on the part of those who would afterwards come into being; I do not know as to that.

Mr. HASTINGS. I am not a member of the subcommittee—

The CHAIRMAN (interposing). Mr. Hastings, you were invited to be present and to take part in the proceedings and we are glad to have you here.

Mr. HASTINGS. If you will just let me say a word—in my judgment this whole thing is under the control of the United States and of Congress. This act of 1889, or this agreement, is only an act of Congress. It has no greater effect. If Congress thinks it necessary now or at any time subsequent and wants to change the method of settlement as well as other affairs of the Chippewa Indians, it will have that legal right. It may not have a moral right to do it. If they think it is of benefit to the Chippewa Indians, they can change the method as long as they do not take anything away from them, and divide the proceeds among those Indians. It is the province of the

political department of the Government to take care of the members of these several tribes. Now, that has been settled in a number of decisions, that this comes within the jurisdiction of the political department of the Government and we can change the method of settlement as often as we want to. That has been decided in the case of Lone Wolf, found in 187 United States, and in that of the newborn Cherokee Indian baby case, where Congress changed the method of settlement with the members of the tribe. In my judgment those cases and numerous others settled the right and power of Congress to change the method of making the settlement so long as nothing is taken away from the Indians, and we may make any method of settlement that Congress might think equitable, fair, and just.

The CHAIRMAN. You have stated my understanding of the case absolutely, much better than I could.

Mr. HASTINGS. I am sure that Mr. Meritt will agree with me that the decisions are all to that effect.

Mr. CARTER. Mr. Chairman, there is not a particle of dispute about that. The decisions in the Lone Wolf, the Cherokee Baby, and other cases cited by Mr. Hastings are as familiar to many of us as the alphabet. The power of Congress to do this is undisputed. This contention might not be strictly a legal contention, but my suggestion is that these fellows are going to come back. They will come back, after you and I have passed away, perhaps, and say that the matter was not properly settled. They will want the matter sent to the Court of Claims on this proposition, and they may get equity proceedings some way or other and in that way establish a claim against the Government.

The CHAIRMAN. I will say this in reply to the gentleman, that if they do not get along any faster than they have been getting along during the last five or six years the Government will not be out a great deal.

Mr. CARTER. It is just as well for us to do this thing right as it is to leave a liability on the part of the Government for claims, and there is no reason in the world why the department should not be intrusted to treat with the commissioners duly elected to do that, and they could come back here within a year—12 months—with an agreement for a settlement. That is my suggestion.

Mr. ELLSWORTH. I shouldn't care to make any statement as to that being satisfactory until I had consulted with the general council of the tribe. I can see a great deal of force to the suggestion of Mr. Carter, of course, from a moral standpoint, but I can also see that the amount of fraud that might grow out of that sort of a thing might be far greater than the amount of injustice that might be done.

The CHAIRMAN. I think that anybody who knows about the proposition could easily see that the whole thing could quickly be defeated if it is going to be taken back and would require a two-thirds vote of the people to pass upon it. Any party not wishing it to pass could easily get one-third votes, or enough votes against it to defeat it.

Mr. ELLSWORTH. They would be voting entirely under a misapprehension of the facts.

Mr. CARTER. Are we to understand that there are any Chippewa Indians who do not want this settlement?

Mr. ELLSWORTH. Yes; I should say that there are some who do not want anything. There are some who are opposed to any kind of a winding up of the affairs of the tribe.

The CHAIRMAN. I think we want to go just as far as we can with reference to winding up the affairs of the Chippewas, and I am willing, so far as one member of the committee is concerned, to take a chance on one or two little things that might come up in the future if we can do a tremendous amount of good and take care of those who are now living. Have you anything further to say, Mr. Ellsworth?

Mr. ELLSWORTH. I haven't anything further to say, Mr. Chairman.

The CHAIRMAN. Mr. Knutson, the author of the bill, is present, and in view of the fact that it is his bill that is being given consideration, I think we would be very glad to hear from him. I would say to the gentleman that the reason he was not first heard on the bill was because he was not here when we started the hearings and the discussion of the bill this morning.

Mr. KNUTSON. I thank you, Mr. Chairman. The reason I was not here when the hearings were started this morning was that I had a committee meeting which I had to attend, together with Mr. Hayden.

I just want to make a few statements of facts. Mr. Ellsworth introduced his bill in June. Later on Mr. Rogers came to Washington, and he, in company with Mr. Ballinger, came to my office one day and stated that the Indian Bureau was opposed to certain provisions of the Ellsworth bill and asked me if I would introduce a bill meeting the objections of the Indian Bureau, and I told them I would, and on October 14, last, I introduced H. R. 9924, a bill to aid in the winding up of the affairs of the Chippewa Indians of Minnesota.

It is practically like the Ellsworth bill, with the exception of the few changes which I was told would meet the objections of the Indian Bureau.

The CHAIRMAN. Can you point out to us, Mr. Knutson, what those objections are with regard to the original proposition?

Mr. KNUTSON. I might say, Mr. Chairman, that I am not versed in these Indian affairs at all. I introduced this bill, and after I introduced it I happened to be down at the Indian Bureau—

The CHAIRMAN (interposing). I will say that what I have in mind is that I would like to know how the Chippewa Indians feel toward this proposition. They first wanted one thing and then afterwards wanted something else.

Mr. KNUTSON. I am going to confess, Mr. Chairman, from the outset, that I know very little about the Chippewa matters in Minnesota. I am willing to follow the members on the committee to a large extent, because there are members on this committee who have made a life-long study of Indian matters and in whose judgments I have great confidence.

Now, there are two bands in the sixth district. Of course, they are the ones in which I am primarily concerned. They are the Red Lake Indians and the Leach Lake Indians.

After I had introduced this bill I received a number of protests from Red Lake and also from Leach Lake and even some few from Cass Lake. I wrote to those who had written opposing this bill to the effect that the bill was introduced at the request of Mr. E. L. Rogers, of Walker. The gist of every letter that I received was that this bill would—that they had been advised by their attorney that this bill would open up the floodgates to fraud. So, I wrote these people that I had no intention and that I would not lend myself to

furthering any legislation that would throw the full-bloods or the half-breeds of the Chippewa at the mercy of the unscrupulous, and I will not. Now, whether or not this bill will open the floodgates to fraud is something for the committee to determine. I do not know. I am not well enough posted on Indian matters to know; but I do know that the competent Indians, the Indians who are competent, should be placed on their own resources.

There is no question at all about that. I think that all will agree with me in that respect. The Indian Bureau and the members of the committee are in accord with the proposition of placing the competent Indians on their own resources; but, of course, the incompetent Indians on the Red Lake Reservation and on the other reservation, especially on the Red Lake, and those that we term "Blanket" Indians. I was told last summer that some of those were still pagan. I was told that by an Indian who was accompanying me on a trip through the Red Lake Reservation during the first part of June or July; but, of course, that would not have any bearing on their competency, because we have white pagans also who have no religious belief. Now, I introduced this bill, Mr. Chairman, primarily for the purpose of affording the committee a framework upon which to build. That was my idea. Now, I hope that H. R. 9924 can be used as a framework. Of course, it is something for the committee to build on. I am extremely anxious for all competent Indians to be removed from all restrictions placed upon them, and put upon their own resources, but we must not lose sight of the fact that there are Indians on the Red Lake and the Leach Lake Reservations who are not competent and never can be competent, and turning them loose on their own resources would be a criminal act on the part of the Government and a gross violation of its obligations to these Indians, because they would be cheated out of everything that they have got on earth within 48 hours after they got patents to their land. The lumber companies would come in there and prey on them and other unscrupulous people would come in and prey on them; and that is one thing that we must guard against. Some of these Indians are absolutely incompetent and will be incompetent as long as they live. We must protect them against unscrupulous persons, because they would be the prey of such persons within a week after they received the patents to their lands—

The CHAIRMAN (interposing). Of course, the gentleman realized that he has extended the time from 48 hours to a week—

Mr. KNUTSON (continuing). But that is the one thing, Mr. Chairman, I want to impress on this committee. I am going to urge on the committee to look after the welfare of the full-bloods and half-breeds, and I know that the committee will look after their interests. That is my first concern, because they need looking after.

The CHAIRMAN. With regard to these Indians, there is one question I would like to ask, and that is, How much territory do these incompetent Indians spread over? What I had in mind was, should these Indians be segregated in order that we might take care of and look after them as a body?

Mr. KNUTSON. That, of course, is for the committee to determine.

The CHAIRMAN. Well, what I want to find out is with regard to the competent Indians and what should be done to assist them.

Mr. KNUTSON. Well, I presume a large number of these Indians—in fact, all of them—have established their homes. They may be very modest, it is true, but nevertheless they are living on certain spots and they have chosen their work. They are living together in scattered settlements. I do not know whether they could be placed together in concentration camps or not.

The CHAIRMAN. I am just asking for information.

Mr. KNUTSON. Of course, we could do that, or I presume that could be done, if it was thought that was the right way, but would that be the right way to do it?

The CHAIRMAN. I do not know; I want to find out from you men who know about these Indians.

Mr. KNUTSON. I have already stated that I am not very conversant with these Indian affairs in Minnesota.

Mr. ELLSWORTH. Mr. Knutson, I want to ask you whether or not your bill does not provide against the thing about which you have expressed fear about fraud being practiced upon the incompetent Indians, if your bill does not provide against that?

Mr. KNUTSON. I have read it over and it is my opinion that it does; but as I say, I am not competent to pass upon this bill. I am not an attorney. I have never studied law and I am not competent to pass upon the legal questions involved. I am not able to pass upon the legal phases of this bill but I understand that the opponents of this bill have engaged Mr. McDonald, who is a very able attorney; in fact, he is one of the best-known attorneys in northern Minnesota.

Mr. HAYDEN. Can Mr. McDonald be brought before this committee?

Mr. KNUTSON. I wired Mr. McDonald. I wired all of the opponents of the bill after Mr. Morrison and his party came here. I wired the others at Mr. Morrison's suggestion so that they could be here.

Mr. ELLSWORTH. If this bill does not, as a matter of fact, in the opinion of the members of the committee, provide insurance against these frauds, do you want the committee to frame such a bill as will?

Mr. KNUTSON. I am for a bill that will wind up the affairs of the Chippewa Indians so far as the competent Indians are concerned, but I think they should have this protection.

Mr. ELLSWORTH. That is what this bill provides.

Mr. KNUTSON. And I know the committee will give the incompetent Indians all the safeguards that are necessary to protect them against unscrupulous persons.

The CHAIRMAN. I might say that you might feel perfectly sure that the committee will not take action until it has been fully advised.

Mr. KNUTSON. I know that it will not.

Mr. KELLY. Are we to understand that you are the author of this bill and do not urge its passage?

Mr. KNUTSON. I made a statement that I introduced this bill for the primary purpose of affording the committee a framework upon which to build the bill that will meet the needs of these Indians. There is no question but what legislation is needed at this time which will give relief to all competent Indians, and which will benefit them.

Mr. CARTER. What I understand, Mr. Knutson, is that you are urging this legislation but you desire it to protect the Indians—

Mr. KNUTSON (interposing). No; I am—

Mr. CARTER (interposing). That you are not an expert on such and you want the chairman and the members of the Indian Affairs

Committee, all of whom have had more or less experience, to take a hand in the framing of your bill so that it will be what you want?

Mr. KNUTSON. And draft a bill that will relieve the competent Indians and yet protect the incompetent ones.

The CHAIRMAN. I think that covers the question.

Mr. MERITT. If I might be permitted to make a preliminary statement, I think that I could save a great deal of the committee's time and a great deal of discussion. If I had made a statement at the beginning here, I think it would have saved a great deal of time.

The CHAIRMAN. I think, undoubtedly, it would and therefore we would be very glad to hear you, Mr. Meritt.

STATEMENT BY MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER, OFFICE OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR.

Mr. MERITT. The Indian Bureau has had under consideration this subject of the Chippewa Indians. We have examined the Ellsworth bill and we have found a number of provisions in that bill which are not satisfactory, and which were objected to by a large number of the Chippewa Indians. The Knutson bill was introduced, which eliminated a number of the provisions of the Ellsworth bill. We have gone over the Knutson bill and we find a number of provisions in the Knutson bill which are not satisfactory to the Chippewa Indians. The Knutson bill to my mind——

The CHAIRMAN (interposing). Just a moment. Now, you say that it is not satisfactory to the Chippewa Indians?

Mr. MERITT. It is not satisfactory to some of them, the Red Lake Indians, primarily, and also the full-blood Indians. The Knutson bill to my mind should be redrafted, and I have told the Chippewa Indians who are here, and Mr. Ballinger, that we would be in favor of redrafting the Knutson bill, separating the jurisdictional phases of the bill from the legislative part and getting together on the legislation that was necessary and desirable for all of the Chippewa Indians in Minnesota, rather than a part of them; and in line with that policy we have submitted to the chairman of this committee under date of January 16, 1920——

Mr. KNUTSON (interposing). Mr. Chairman, may I interrupt you for just a moment? If there is no objection, I would like to withdraw my bill and have the committee consider Mr. Ellsworth's bill, and he will look after it on the floor.

Mr. ELLSWORTH. If there is no objection, in the application for unanimous consent with regard to this bill that we are now considering, I would like you to regard it as being consideration of H. R. 6461 and that the substance of H. R. 9924 be considered as a substitute amendment to H. R. 6461; that is, that one be taken as a substitute for the other, as the identical bill.

The CHAIRMAN. Is there any objection to the request? If not, it is carried.

Mr. ELLSWORTH. I will state that there is not any conflict on the part of Mr. Knutson and myself about the bills, but it is merely a matter of urging the bill on the floor of the House and for other matters.

Mr. MERITT. Mr. Chairman, we have submitted to the committee a draft of the jurisdiction bill in one separate bill, which I think is the proper thing to do. Under the Knutson bill and the other bill the jurisdictional feature is scattered throughout the bill, and we have agreed with the Indians who are now in the city and with Mr. Ballinger on a proposed jurisdictional bill. We also had an understanding that we would go over very carefully the legislative provision of the bill and we would draft a bill that we thought would meet the situation and protect the interests of all the Indians.

Now, if we may have a little time to go over this matter, I think we can submit to the committee a bill that will be satisfactory to a very large majority of the Indians. Both bills that are now before the committee are not entirely satisfactory and they are objected to by a large number of Chippewa Indians.

Mr. HAYDEN. Why is it necessary, Mr. Meritt, to make two bills out of this proposition? There is a question, of course, when they set up claims before the Court of Claims for adoption that will be under your jurisdiction and the other question does not require any court action. Why could we not combine the two propositions in one measure, the first part being the jurisdictional part of the bill and the second part the division of the property, so that it all can be done at one time? I do not quite see the necessity of considering two bills, having one to come at one time and another to come up at another time on separate days at separate times when there is a material advantage in taking up the whole subject at one time.

Mr. MERITT. Because there would be no objection from any quarter on the jurisdictional phase of the bill. I think that it can be so worded that it will satisfy all interested parties, but there will be more or less objection to any legislation that may be introduced in regard to the division of the property of the Chippewa Indians.

The CHAIRMAN. Now, Mr. Meritt, you understand this bill, sent up to me under date of January 16, is a combination of the Knutson and the Ellsworth bills with such other modifications as have been agreed upon between you and the Indians present and those who are not present?

Mr. MERITT. So far as it relates to the jurisdictional features. We have not yet had sufficient time to pass upon the legislative features and we have an understanding with Mr. Ballinger and the Chippewa Indians that are here that we are to go over the legislative features and see if we can not get ready to submit a bill that is satisfactory to all the Chippewa Indians.

The CHAIRMAN. That seems to be the ordinary way to proceed in this proposition. It is a very big question.

Mr. MERITT. It is, indeed.

The CHAIRMAN. Undoubtedly the committee desires by all means to have presented to it a bill which has been agreed upon by at least all of the parties; that is, as far as it is possible to consolidate it into legal limits; and it seems to me that if you can agree upon that within a reasonable period, we can then proceed to consider a consolidated measure of that kind, and it seems to me we ought to suspend the hearings until that presentation is ready.

Mr. MERITT. It is my judgment that this jurisdictional bill should be separated from the legislative bill and that we have agreed on

that. This jurisdictional bill is acceptable to the department and is acceptable to the Indians who are here. It has been gone over very carefully with Mr. Ballinger, and I think that I can say to the committee that this jurisdictional bill that has been submitted is entirely satisfactory.

Now, if we are given a little time we can go on with the legislative matters and boil them down and agree, if we can, on such legislation as may be necessary.

The CHAIRMAN. How long a time do you contemplate—how long a time do you think that you would need?

Mr. MERITT. I would say that could be done within 15 days; that we could get together within that time.

The CHAIRMAN. Then, I would like to ask Mr. Ballinger to qualify whether or not he is the legal representative of the Indians present who are the legally elected representatives of the Chippewa Indians.

Mr. BALLINGER. Now, Mr. Chairman, if you will permit me—

The CHAIRMAN (interposing). Now, Mr. Ballinger, I do not care to go into the matter any further except to determine whether you are the legal representative, and whether or not the Chippewa Indians you claim to represent will be bound by what you say, and whether or not you agree to what Mr. Meritt has just stated.

Mr. BALLINGER. That I am the duly authorized representative of the general council, there can be question. The president of the general council, Mr. Morrison, is here, and he can give you the resolutions that were adopted by the general council empowering me with that authority and whatever I say before the committee will be binding on the general council, and the general council represents the duly accredited representatives of the tribe.

The CHAIRMAN. And I want to ask you one further question with regard to this arrangement, and that is whether or not you, as a representative of the tribe, since you have been declared the duly authorized representative of the Chippewa Indians, whether you have been recognized as such by the Bureau of Indian Affairs.

Mr. BALLINGER. That is correct. As to a part of this bill, I want to call your attention to the fact that the Indian Bureau has suggested a division of this bill so as to place in one bill the jurisdictional matters; that is, matters to be referred to the courts, and to place in a separate distinct bill the administrative matters.

Now, the general council suggests that that would be imminently unfair to the United States to do that. Why? Because under the administrative features of this bill, if the committee thinks that proper, claims aggregating between \$5,000,000 and \$12,000,000 on the part of the tribe will be waived against the United States. Now, if the administrative features of the bill are retained with the jurisdictional end, it will reduce the claims against the United States between \$5,000,000 and \$12,000,000, that will arise, and I suggest that that is a matter that the committee ought to take into careful consideration.

What the general council is now insisting upon, and have for three years insisted upon, Mr. Chairman, is to reach the property of the tribe before it gets from under the control and legislation of the United States. This property is held in trust by the United States.

and before it passes out from under the jurisdictional control, and the claims are made against the United States—

The CHAIRMAN (interposing). Will you permit me to call your attention to the fact that the only desire that we now have is for information as to whether or not you are in accord with the Bureau of Indian Affairs with regard to the modification of this bill or its presentation in a modified form in a period which Mr. Meritt says can be done, within 15 days' time, and then we can discuss the merits of these two matters which have been determined upon by you and we may not have to listen to the arguments you are now making.

Mr. BALLINGER. Mr. Chairman, I think that is the proper method of procedure; but I want to suggest—

The CHAIRMAN (interposing). But, just conveying—

Mr. BALLINGER (interposing). Gentlemen, that is entirely impossible for us to know what the motive of the Indian Bureau is, or what they propose to do. That we can't—

The CHAIRMAN (interposing). But you state you are working now in unison with the bureau to prepare a measure which will meet with your desires—

Mr. ELLSWORTH (interposing). If you will put the question, "Try to do"—

The CHAIRMAN (interposing). Of course I intended to convey that in my question.

Mr. BALLINGER. Yes, Mr. Chairman, we will be very glad to cooperate.

The CHAIRMAN. That is what I intended to convey in my original question.

Mr. BALLINGER. We shall be very glad to do that.

The CHAIRMAN. I am not desirous of shutting off debate here, neither am I trying to get away from argument, and I know the committee feels the same way as do I about that, but if you are going to come to an agreement with regard to this you should reach your agreement and then we could discuss what you had agreed upon afterwards.

Mr. BALLINGER. Mr. Chairman, I would suggest that we reach an agreement so far as we can on the matters in the bill and leave only the few things upon which we may not be able to agree to for discussion before the committee.

Mr. MERITT. What we would like to do is to get together on this proposed legislation.

Mr. BALLINGER. Mr. Meritt, the jurisdictional bill as drawn is satisfactory to the general council. There are a few changes we would like to have in it, but, as I say, it is substantially satisfactory.

Mr. MERITT. Mr. Chairman, it is very important that we give the greatest care to any legislation relating to the Chippewa Indians, as it is well known to the older members of Congress that legislation was passed a few years ago relating to a part of the Chippewa country that resulted in a great loss and scandal. A large number of the Indians were defrauded of their property on the White Earth Reservation. The property amounted to millions of dollars, and I think the gentlemen from Minnesota will agree that statement is correct.

Mr. ELLSWORTH. But where is the conflict in regard to this matter?

MR. MERITT. The conflict here is between the Chippewa Indians themselves, and we have got to protect the interests of all of the Indians. We are in hearty accord with the desires of the committee and the desires of the Indians to wind up the affairs of the Chippewa Indians just as quickly as we possibly can.

I wanted to make a statement when we were discussing the Chippewa fund, but I did not care to interrupt at that time. Congress has heretofore authorized us to distribute one-fourth of those funds. Now, with regard to the provision of law referred to by Mr. Carter. In my judgment, Congress has absolute authority to make any distribution of those funds. The Supreme Court has held that an act of Congress carries just as much solemnity as an agreement or a treaty with the Indians, and it is absolutely in the hands of Congress as to what disposition should be made of these funds, and within the last week we have submitted to the Senate Indian Committee a provision for the authorization of a distribution of \$5,000,000 of these funds, reserving \$1,000,000 for school purposes, and it is the desire of the bureau to distribute these funds just as quickly as we can get authority. We do not want to supervise the affairs of competent Indians. Competent Indians should supervise their own affairs. There are a large number of Chippewa Indians who are known to be competent, and those Indians we think ought to have their funds and have any claims in any property that they are entitled to have, and we will be glad to go over this matter with representatives of the tribe and try to work out legislation which will be satisfactory to all of the Indians and submit it to Congress at the earliest possible date.

MR. BALLINGER. Mr. Chairman, may I make a suggestion so that we may understand when this matter is to come up and is going to be gone over, that a day certain be set so that on that day certain notice may be given to any persons who may be interested that consideration by this committee is being given to legislation that may be detrimental to the interests of the Chippewas, so that the committee may be in position to be fully advised.

THE CHAIRMAN. What would you say to a date about March 5?

MR. BALLINGER. I would prefer an earlier date, Mr. Chairman, if you could let us have it, as to-day is the 21st day of January.

THE CHAIRMAN. I appreciate, of course, what little responsibility there might devolve upon me in this matter, but I would like to be here, but I will not be here after the 5th of February until the 4th of March, and I would prefer, of course, to have the hearings after that period, unless it would be possible for them to be held before the 5th of February.

MR. BALLINGER. Mr. Chairman, in view of that statement, I ask that they go over until after the 5th of March.

THE CHAIRMAN. I shall be back in Washington on the 3d or 4th of March and we can take the matter up then.

MR. BALLINGER. Then why would it not be satisfactory—I have not examined the calendar—why would it not be satisfactory for us to say the first Monday after the 4th day of March?

THE CHAIRMAN. That would be entirely agreeable to me, if it is to the rest of the committee.

MR. BALLINGER. And, Mr. Chairman, I want to make the further request. Mr. Meritt in speaking about the Indians being dissatisfied

with this kind of legislation states that some of them are dissatisfied. The Indian Bureau must know who those Indians are and it is of course impracticable to bring a great number of Indians down here, but I would suggest that the Indian Bureau bring an intelligent representative of that faction here so that he may make known to the committee with certainty his objections to the legislation.

The CHAIRMAN. I think, of course, that should be done.

Mr. CARTER. I have tried to make what I had in my mind very clear but I still see that there are some things that I have mentioned, some contentions with regard to the power of Congress not quite clear. Of course, the power of Congress is practically settled by the decisions cited. There can be no doubt in the world as to that. The only contention is this: I am trying to make it plain that in case this matter is settled up and in case these Indians who are born after a division of these funds is made make a demand and come back to the committee in future years, probably the committee will send them to the Court of Claims and they will get a judgment against the United States for funds because this property was divided before 1939. Now, that is the only contention I make. It goes not to the power of Congress but as to the rights and claims of these Indians yet unborn. I think the bureau has made recommendations right along this line. I believe the courts may have rendered decisions in point and I am frank to confess I am not quite clear as to just what might happen in case these new fellows should come back. Now, the question I want to ask Mr. Meritt,—He says, of course, and we all subscribe to the law of the land—he says the Supreme Court has held, which it has, that Congress has a right to violate these treaties or to violate any of these treaties that it wants to of course—

Mr. MERITT (interposing). Of course Congress only takes into consideration the interests of the Indians.

Mr. CARTER. What I want to ask is this, does the Bureau of Indian Affairs subscribe to that policy?

Mr. MERITT. I think we have no objection to that as a policy.

Mr. CARTER. Then the policy of the Indian Bureau, no matter what sacred agreements they may have with the Indians, whenever the bureau sees fit to change those agreements, that it is its policy to change those agreements without consulting the authorities of the tribe.

Mr. MERITT. No; I did not make that statement. Not at all.

Mr. CARTER. That is what I understood.

Mr. MERITT. No; I did not make that statement at all; I would not want those words to be put into my mouth.

Mr. CARTER. Well, now, that is exactly what I understood you to say, Mr. Meritt.

Mr. MERITT. No; I based my statement upon the decision of the Supreme Court of the United States and the Indian Bureau has no fault to find with that decision. That is as far as I care to go on that proposition.

Mr. CARTER. You do not care to say whether the bureau or what the policy of the bureau has with regard to going further—

The CHAIRMAN (interposing). He simply stated that the bureau has no objection to a policy of that kind.

Mr. MERITT. I think the Congress of the United States can be relied upon to protect the interests of the Indians.

Mr. CARTER. Yes.

Mr. MERITT. And I think it is within the authority of Congress to authorize the distribution of these Chippewa funds, notwithstanding the fact that there is a provision on the statute books which says that the funds shall not be distributed until the expiration of 50 years. I think that the legislation of that character is absolutely detrimental to the interests of the Chippewa Indians. I think the best interests of the Indians would be to make a distribution of this property now so that the able-bodied competent Indians can use that fund rather than have that fund passed on down to the next generation.

Mr. CARTER. I agree with that. Now, what I want to ask is then if a claim should come in from these Chippewa Indians born hereafter, so long as you are connected with the Indian Bureau they would not have the approval of your bureau for funds out of the Federal Treasury.

Mr. MERITT. No, sir; I do not believe that they would get anywhere with any such a claim.

Mr. BALLINGER. Mr. Chairman, I would like to suggest with regard to the legal question that if the members of the committee will examine the case of *Minnesota v. Hitchcock*, (187 U. S.), and the case of the *United States v. Mille Lac Indians* (229 U. S.), it will probably clear them up with reference to this matter.

Mr. MERITT. We are familiar with those decisions.

The CHAIRMAN. If there are no objections, we will adjourn the committee with regard to hearings on this particular subject until Monday, March 8, 1920, at 10.30 o'clock, a. m.

(Whereupon, at 12.20 o'clock p. m., the committee adjourned.)

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, Monday, February 9, 1920.

The subcommittee met at 10.30 o'clock a. m., Hon. John A. Elston presiding.

Mr. ELSTON. The committee will please come to order. In the absence of Mr. Snyder, it falls to me to call the meeting to order as chairman. It would be well for Mr. Meritt, who is here this morning, to explain to us just what the purpose of this hearing is.

STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, a few days ago about 20 full-blood members of the Chippewa Reservations came into our office somewhat unexpectedly and wanted to be heard regarding their affairs. We did not know that they were even coming to Washington until after they had arrived here. After hearing these Indians we thought it only proper that they should be heard by the House Committee on Indian Affairs inasmuch as they will have to leave the city very shortly, being without funds, and inasmuch as this Chippewa matter is coming up at the regular hearing on March 8. These Indians will be unable to be here at that time.

Mr. ELSTON. Their testimony will bear on what bill that is before the committee?

Mr. MERITT. There is a bill, H. R. 12103, introduced by Mr. Ellsworth, being entitled, "A bill to aid in winding up the affairs of the Chippewa Indians of Minnesota."

There are several provisions in this bill which are exceedingly objectionable to the full-blood Chippewa Indians and also to the Red Lake Indians. First, they object to the general council of the Chippewa Indians having a representation on the commission to wind up their affairs, claiming that that council does not represent the full-blood Indians and that they are opposed to their interests. Second, the Red Lake Indians are opposed to the provisions in the bill regarding the allotments on the Red Lake Reservation. We have recently received protests from the Red Lake Indians against allotting of their reservation. It is claimed by the Red Lake Indians that the general council of the Chippewa Indians want the Red Lake Reservation allotted so that they can later share in the surplus property of the Red Lake Indians, and the Red Lake Indians claim that the White Earth Indians and the other Indians from the other reservations besides the Red Lake are not entitled to share in that property.

There has been also a protest filed against an appropriation for a number of years for the general council of the Chippewa Indians. The full-blood Indians claim that if there is an appropriation to be made it should be made annually rather than for a period of years. The old Indians who are here also refer back to some of the old treaties and claim that those treaties have not been carried out. They were not able to explain to the office very fully their meaning in the short hearing that we gave them, but we will give them another hearing and try to find out just what they want.

Mr. ELSTON. Are the Indians now present here represented by counsel at this hearing?

Mr. MERITT. No, sir.

Mr. ELSTON. They are to testify, every one being his own spokesman.

Mr. MERITT. Yes, sir.

Mr. ELSTON. This matter was called at this early date upon the request of the department, and I understand at the urgent request of Representative Carss, of Minnesota, who is very much interested in the matter and who desired that these Indians have as early a hearing as possible in order that they would not be put to great expense by delay. Mr. Carss has represented the matter in such a way as to indicate that it would be proper for us to have this meeting this morning. Representative Carss, do you desire to make any statement at this time.

STATEMENT OF HON. W. L. CARSS, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA.

Mr. CARSS. I have no statement to make. I was interested in this matter to find out just as much as I could about the conflicting claims, and it was represented to me that these men were not financially able to remain over until the regular hearing, and in order to enable them to put their claims before the committee, I made this

request to talk the matter over with the commissioner. I do not know that I have anything further to say. My only interest is to find out just exactly what their claims are and to see if they have any valid reason to urge why the regularly elected council should not represent them. As I understand, there is some friction there and I would like to have the matter cleared up to my own satisfaction.

Mr. ELSTON. That is, it is desired to have the matter fully heard here and testimony given and have an opportunity given to the people here to have a fair hearing.

Mr. CARSS. Yes; that is what I would like to see done.

Mr. ELSTON. I suppose the order now would be to hear from the delegation selected to testify for them.

Mr. MERITT. That is what is expected.

STATEMENT OF LOUIS AYNESNASSUNG, INTERPRETED BY JOHN GOSLIN.

Mr. ELSTON. Whom do you represent?

Mr. AYNESNASSUNG. I represent the various tribes in the State of Minnesota; the balance are those from Wisconsin.

Mr. ELSTON. What are the names of the tribes?

Mr. AYNESNASSUNG. The Chippewa Tribe of Minnesota and Wisconsin.

Mr. ELSTON. Are you chief or elected representative of these Indians?

Mr. AYNESNASSUNG. Yes.

Mr. ELSTON. Of what band?

Mr. AYNESNASSUNG. Fond du Lac Reservation, Minn.

Mr. ELSTON. State what you want the committee to know and what objection, if any, you have to this bill?

Mr. AYNESNASSUNG. Honorable House of Representatives and Committee on Indian Affairs, I appreciate the opportunity to make my appearance as to the bill that will be presented by the delegates here, which is being proposed to have passed and become legislation.

Mr. ELSTON. What have you to say about the bill?

Mr. AYNESNASSUNG. The delegation you see here present at this meeting are members of the Chippewa Tribe, representing the various bands of Indians on the reservations from Minnesota and Wisconsin. I came here with the purpose to look into the interests of the treaty right which we have in common, the treaty that was made in 1842. That was my purpose when I left where I came from, but since this bill has been brought before us I will speak in behalf of the Chippewa Tribe. That is, the delegates from this part of the country do not know any such bill is being proposed by any delegates that are supposed to represent the Chippewa Tribe. We have not heard what the bill was for until we arrived here.

Mr. ELSTON. Are you for or against the bill?

Mr. AYNESNASSUNG. Any bill or any legislation which concerns my tribe where I come from and that I do not know anything about. I oppose it; but if I should happen to be told and consulted about it, well, I will think and consider and do what is right.

Mr. ELSTON. Did you see the bill or hear about it before you came to Washington with this delegation?

Mr. AYNESNASSUNG. I never heard that there was such a bill or ever seen it or ever was given any explanation of it.

Mr. ELSTON. Why did you and this delegation come to Washington? What was your errand?

Mr. AYNESNASSUNG. I came here for the purpose of the treaty that was made between my grandfather and the Government, to find how I could proceed in order to obtain the rights and privileges given me in that treaty.

Mr. ELSTON. Have you read the bill or had it read to you?

Mr. AYNESNASSUNG. Yes; it was read to me and I have it here.

Mr. ELSTON. What points in the bill or what parts of the bill are objectionable?

Mr. AYNESNASSUNG. The bill that I have aloft in my hand here is a bill that I do not understand and have not been consulted or given an explanation thereof, and I oppose it for this reason, that any such bill it is the custom amongst the tribes wherever such a bill is proposed to be passed that it is requested that the Government officials consult with the Indians, as I understand, and, therefore, I believe that when such a bill is being proposed, before it becomes legislation, I should be consulted as to what opinion I may have, as it may help me to a certain extent, if explained in a proper manner, and it comes on the basis of a legal principle. I do oppose it for this reason, that the delegates that are supposed to represent my tribes where I come from are not legally appointed by the Chippewa Tribe of Indians. They are not appointed by a legal council. It does not come from the right source, and I have not been notified by these delegates that were sent here to propose this bill.

Mr. JOHN ARTEN, of Superior, Wis. That interpretation of that is absolutely wrong. The interpreter is not interpreting as to what the man says. You asked him what part of that bill he objected to.

Mr. ELSTON. Do you represent the other side?

Mr. ARTEN. Yes.

Mr. GOSLIN. I will come to that in a moment.

Mr. AYNESNASSUNG. Here is where the allotments are to be issued out among the members of the tribes. The competent Indian will enjoy the benefits of allotting these allotments, whereas the non-competent will not enjoy the same privileges as the present Indians that are enjoying the privilege of competency. It seems to me to be under the control of another party where a competent Indian will be deprived of such restriction.

Mr. ELSTON. Do you expect to be competent or do your people expect to be competent before long, and when they reach their competency will they have the same rights with the others?

Mr. AYNESNASSUNG. I understand the meaning and purpose of this bill, but I say here that it is the right of my people. We do not know the persons that drew up this bill. We do not know their character. We do not know them personally and we do not know them to refer them, do not know their history or their principle, and if I want such a man I want somebody that I know to represent me and do an act that would benefit me. There has been an appropriation made here for all these delegates that have come here from time to time, to defray their expenses and all such as that, but of the appropriation that has been granted to them for their expenses, the remainder of it after the expenses have been defrayed, they have divided among the

few that have been here at Washington. That is what we object to, and I say that if I wanted that man to represent me, I would have the council of mine appoint a delegate that should represent me. But I do not know this gentleman or any of the gentlemen that presented this bill and, therefore, I protest against it.

Mr. MERITT. He is now protesting against the \$10,000 appropriation carried in the Indian bill for the Chippewa council.

Mr. AYNESNASSUNG. After these delegates that have been here have gotten the bill through granting them certain appropriations, the Indian has been deprived of that appropriation and has not received any benefit out of it, only the few that have been here to represent the Indians.

Mr. HERNANDEZ. Who has read this bill to you? You can not read or write English yourself?

Mr. AYNESNASSUNG. No.

Mr. HERNANDEZ. Did you have a meeting with your people before you came here in order to explain the bill or have it read over?

Mr. AYNESNASSUNG. Where we stopped or boarded at the place I first saw the bill, and it was read and explained to me there.

Mr. ELSTON. He said that they had no notification of this delegation coming on here; that is, this other delegation. How is that? Was it not made public there in that country and did not most people know that that delegation was coming on here?

Mr. AYNESNASSUNG. They had a council where they did not notify Indians what his purpose was. In my council I have a council hall where I hold councils and there it is my desire when any tribal matter comes up for discussion that it is the proper place to bring this matter up and tell me what the object of it is, and then I would be satisfied. But where I simply hear that they will only want a certain type of Indians to meet at a certain place, that is where an Indian is barred out again.

Mr. ELSTON. Do you know what the law is with regard to Indian councils? Why do you think this council was not regular in so far as you know about the laws?

Mr. AYNESNASSUNG. The treaty that was laid down for me and the provisions that are in the treaty it states jurisdiction was barred on my reservation. That is the case where I come from; that is the object what they want to do with me, and it is the custom and this custom is law, that not being able to produce anything in writing and not able to speak the English language, it was the proper place for them to explain it to the Indians.

Mr. ELSTON. Are you chief of your tribe by inheritance or election?

Mr. AYNESNASSUNG. It comes from away back, my grandfather and great-grandfather have been chief, and my father was chief, and now I am the chief.

Mr. ELSTON. Have you any specific objections to the bill?

Mr. AYNESNASSUNG. The interpreter has read to me these 15 sheets of paper, and some things have been brought out that would conflict with the treaty rights that I have where I come from. I leave it to my interpreter to explain those things to his best ability.

Mr. ELSTON. State what he has told you.

Mr. GOSLIN. Not attempting to speak in his language by interpreting, and to take the full advantage of the time he wants me to explain the rest of it.

Mr. ELSTON. Unless he has told it to you, we will take that up later.

How do you want this thing done if you should have the arrangement of it?

Mr. AYNESNASSUNG. If I proposed any such a bill to be passed, I would only ask the gentleman to have legislation passed that would not conflict with any of our Indian property or the property that is now my property.

Mr. GOSLIN. He means to say that the Fond du Lac Indians have no authority or power or any title on the White Earth Reservation, and the White Earth Reservation has no power to rule or control the tribes on the Red Lake Reservation.

Mr. ELSTON. Are you satisfied to let things stay as they are now without any legislation?

Mr. AYNESNASSUNG. Delegates who are here at present were sent here for the purpose of discussing the 1842 treaty for certain rights that they have in the treaty and after their affairs have been settled properly and gotten what their purpose is in coming here, what they were sent here for, they will go back to their people and hold a general council of the tribes included in the treaties, and then they propose to make a new treaty which will settle the standing of their people.

Mr. ELSTON. We thank you for your kindness in coming here.

Mr. COLE. I think it would be a good suggestion, if they knew nothing about this bill until brought here, to give them an opportunity to discuss it among themselves.

Mr. ELSTON. What proportion of all the bands or of the total population in all the reservations does this delegation represent? Is it a half or a third or a fourth, or what is the percentage of the total Indian population which this delegation represent?

Mr. AYNESNASSUNG. I can not figure the percentage that I represent. I can furnish you the list of names that I represent here.

Mr. TILLMAN. Do you know about the percentage?

Mr. GOSLIN. About 20 per cent.

Mr. ELSTON. You think it is only about one-fifth of the whole Indian population that this delegation represents?

Mr. TILLMAN. Not the Indians here, but those that the delegation represents. What percentage of the whole tribe does the delegation represent?

Mr. GOSLIN. They represent about 75 per cent of the tribe where they come from. The property owners among the Indians are so varied that the agitators are only about 25 per cent of them.

Mr. CARSS. Were these men present when you held the council at White Earth last fall and selected delegates to come down here?

Mr. AYNESNASSUNG. The gentleman standing over there (Mr. Arten), I did not know that he was coming to Washington at all until I saw it in the paper that I get at home. I did not know who elected him to represent the tribe.

Mr. CARSS. Then you were not present at that meeting where these delegates were chosen?

Mr. AYNESNASSUNG. The council that compose the Chippewa Tribe, I always hear of such a council going to be held, but the half-breeds, I never heard of their council.

Mr. ELSTON. That is very good. I think we have got his statement.

Mr. AYNESNASSUNG. I was advised by the people I represent here when I left where I come from not to mingle with any other people or any other parties or other delegates that may be here, but since got here and saw this bill I notified the people right away what was going on here and they told me not to do anything except what they sent me here for. My purpose is to look after the treaty of 1842.

Mr. ELSTON. Very well. We will hear the next witness.

Mr. MERITT. I think Mr. John Arten ought to be heard now, inasmuch as he represents what is known as the general council.

Mr. ELSTON. Of course, there are two sides to this. One side has been heard to a certain extent in explanation of the bill which they are in favor of. If Mr. Arten has any matter in rebuttal in contradiction of what has been said, I think we should hear the direct testimony first.

STATEMENT OF MR. JOHN ARTEN, SUPERIOR, WIS.

Mr. ARTEN. I want to have the record show that the gentleman said that he was not there when the representative of the council was elected.

Mr. CARSS. He said he was not notified.

Mr. ARTEN. By the request of the Bureau of Indian Affairs, the council elected our delegation. This gentleman (Mr. Aynesnassung) is now under another name. I never knew he had another name until he gave it here. His name is John McCarty, where he comes from. I am from the same reservation that he lives on. He says that he was not there when the delegation for the general council was appointed. He was there; I know he was. He made a statement there. He tells your committee here that he was not notified of these things. Our council, gentlemen of the committee, is handled just like your elections of Congress. We have a constitution, a local constitution governing the councils of local reservations, and a constitution of the general council.

Mr. ELSTON. I think that is a matter for Mr. Meritt to explain to us. This hearing is to hear these particular 20 delegates, and not to consider testimony in rebuttal which can be brought out later. We will be perfectly willing to hear testimony from you people also, but I think we had better finish with this direct testimony of these witnesses first.

Mr. MERITT. Mr. Goslin has a statement to make in his own behalf, not as interpreter.

STATEMENT OF MR. JOHN GOSLIN, CHIPPEWA INDIAN RESERVE, WIS.

Mr. GOSLIN. I am a resident of the Lac de Orelle Reservation, Wisconsin. There are certain articles that conflict with the 1842 treaty. We have a title in common that belongs to us, but separately, on reservations, we have no other rights and no other title outside of our own reservation. I am not opposing this bill to the extent that it will be detrimental to the people and to a certain extent beneficial to us, providing that the treaties laid down by our grandfathers, the treaties made with our grandfathers, owing to certain property that they owned, which we demand. We come here for the purpose of looking, and to try to persuade our commissioner to give us a state-

ment of the property and the financial standing of our reservation, and after we have fulfilled this thing, then we are ready to draft a bill which will, as you say, give us a right title and a right channel to live on, but as we are down there, we are practically tied. We do not enjoy the privileges that a citizen should enjoy to a certain extent for that reason. You take the noncompetent Indian. He is handled like you would your own child; you bring him up and rear him like he was an infant. You look after him, and see that everything is provided. Why does he not enjoy those certain privileges? Because the competent Indian has not been partial enough to look after it. You might as well say his father and mother give him the same interest that he tries to attain for himself. If he attains certain privileges and restrictions, he still wants to go as incompetent.

Mr. ELSTON. What are those privileges that you want?

Mr. GOSLIN. We came here to lay down the treaty of 1854 and ask the committee to comply with that.

Mr. ELSTON. In what respect does it give you rights that you are denied now? What other things does it give you that you are not given now? What is it that you want?

Mr. GOSLIN. If any legislation should happen to be passed, and the date of ratification of the bill would deprive us of a common title; it would deprive us of the treaty rights which would come to a final settlement according to the treaty.

Mr. ELSTON. Would you expect that you or your tribe alone would decide these treaty rights without referring them to the United States or State courts?

Mr. GOSLIN. For this reason I oppose again the judicial part of the bill. For instance, if the bill should pass, and the Indians should claim themselves competent, they are competent enough to follow such cases up with the courts, beginning with the lower court and going to the higher court. Your competents, as they call themselves, are competent enough to defend their title against such matters without getting and hiring a professional to squander their money.

Mr. ELSTON. How are you going to get at your rights? You can not say our treaty says so and so, and if the Government says no, or the other factions in your tribe say no, who is going to decide it?

Mr. GOSLIN. I say this. Take our half-breed brethern over there. Why don't they come to us and say, let us propose this bill and come to a final principle that we may work together and draw all the benefit we can derive from it. We are willing to compromise with them on those grounds, but they simply go to work and consult their own members and their friends to work for certain principles and leave the Indians out.

Mr. ELSTON. Were you at this council?

Mr. GOSLIN. No; I was not.

Mr. ELSTON. Did you have notice?

Mr. GOSLIN. No.

Mr. ELSTON. Could you have voted if you wanted to?

Mr. GOSLIN. I could have voted if I got a notification that there was such a meeting.

Mr. CARSS. You had no notice?

Mr. GOSLIN. No.

Mr. CARSS. Where do you live?

Mr. GOSLIN. Reserve, Wis.

Mr. CARSS. You are not in a Minnesota band?

Mr. GOSLIN. No.

Mr. ELSTON. Do you maintain now that 75 per cent of the Indians that live in all those reservations were not notified of this council, but that the little one-fourth got together and put over something?

Mr. GOSLIN. Yes, sir; I claim that 75 per cent of the Indians on the reservation were not notified for this reason, that 75 per cent of these Indians there are incompetent Indians. They post up notices, but a man that can not read or write, what does he know about a notice until he is given an explanation?

Mr. ELSTON. Are there not people like yourself who can read and write who can explain it to him?

Mr. GOSLIN. Probably there would be one where there is a Government office. There is one posted there and maybe one at the agency. Every Indian does not go to the Indian agency or the farmer's office every day.

Mr. ELSTON. Did you see any of these notices after they were posted?

Mr. GOSLIN. No, sir.

Mr. ELSTON. You knew nothing of this council?

Mr. GOSLIN. No, sir; not until after the delegates drew up their report, then I heard of it.

Mr. ELSTON. You did not know that a meeting was to be held until after it was done, and then what they had done was told you?

Mr. GOSLIN. Yes.

Mr. ELSTON. Were you on the Minnesota Reservations while this meeting was held and while the notices were posted?

Mr. GOSLIN. No, sir.

Mr. ELSTON. You had no means of getting that?

Mr. TILLMAN. You contend that 75 per cent of the whole tribe had no notice, no actual notice, no constructive notice, or any kind of notice?

Mr. GOSLIN. No, sir; and it is the desire of our delegates, in passing any bill which is passed—we only ask for our reservations—not to pass any bill that will conflict with any treaty prior to January 14, 1889.

Mr. COLE. Then, if these treaties were properly interpreted, your tribe would be satisfied without the passage of any legislation at all?

Mr. GOSLIN. All these treaties prior to that, in the treaties of 1864 and 1842, if they were properly settled and the Government fulfilled its agreements, I am willing to take my citizenship and live under the American flag.

Mr. TILLMAN. Speaking for yourself and 75 per cent of the tribe, you claim that the half-breeds deceived you and were putting things over on you in not giving notice of these meetings. Do I understand that to be your attitude?

Mr. GOSLIN. I understand that to be the case where I come from.

Mr. CARTER. Whom do you represent?

Mr. GOSLIN. Lac de Orelle Reservation, Wis., Reserve, Wis.

Mr. CARTER. Were you elected by your council to come here?

Mr. GOSLIN. Yes, sir; I was elected by my people.

Mr. CARTER. Who pays your expenses down here?

Mr. GOSLIN. They pay our expenses.

Mr. CARTER. The people do?

Mr. GOSLIN. Yes.

Mr. CARTER. Are they all full-bloods in Minnesota?

Mr. GOSLIN. Full and mixed bloods on our reservation.

Mr. CARTER. They got together and selected you to come here and agreed to pay your expenses?

Mr. GOSLIN. They selected me to come here and interpret.

Mr. CARTER. Did they have a meeting when they did that or how were you selected?

Mr. GOSLIN. They had their council and selected me.

Mr. CARTER. Was that council a large meeting of the people?

Mr. GOSLIN. It was a general mass meeting of the people.

Mr. CARTER. How many were there?

Mr. GOSLIN. There were about 60 in the first meeting, January 25. The second meeting was held on January 28, on Tuesday, where the agent was called up, and I was not present there at that meeting. The following Sunday, January 31, there was a meeting again, at which I was present. I do not know just the exact number there, but I might say between 60 and 70 per cent of the population.

Mr. CARTER. How many are there on that reservation?

Mr. GOSLIN. One thousand two hundred.

Mr. CARTER. And you claim there were around 700 at this mass meeting?

Mr. GOSLIN. Yes.

Mr. ELSTON. What is your business?

Mr. GOSLIN. Common labor.

Mr. ELSTON. What is the business of the gentleman who just preceded you?

Mr. GOSLIN. Farming.

Mr. CARTER. What is it that you object to about this bill? What portion of the bill do you object to?

Mr. GOSLIN. There are certain articles in that bill I favor, but the only thing I object to first of all is that the people that I am interpreting for claim that the bill does not come from legal sources.

Mr. CARTER. You are for the bill, then, but you just oppose the method by which the claims of the Chippewa has been presented. Is that what we understand?

Mr. GOSLIN. Yes, sir. I favor the bill provided that the delegates are legally appointed and have the right power to draw up such a bill.

Mr. CARTER. The delegates would have nothing to do with passing the bill. Congress has to do that. Suppose Congress would take up this bill and pass it without reference to what any of you say? Would the bill be satisfactory to you?

Mr. GOSLIN. No. I would oppose this bill now. My people came here, sent me here to look after the treaty of 1854, until the settlement is given to me, and the fulfillment of the treaty has been made to me.

Mr. CARTER. Do you claim this bill violates your treaty of 1854?

Mr. GOSLIN. Yes.

Mr. CARTER. Can you tell in what respect it violates it or point out how it violates that treaty?

Mr. GOSLIN. There are certain articles in the bill that would deprive us of certain titles and which would deprive the noncompetent Indians of certain rights.

Mr. CARTER. What rights are those?

Mr. GOSLIN. It would be this, that the incompetent Indians would not enjoy the same privileges as the competent Indians.

Mr. CARTER. I understand, but can you tell us just briefly the rights it would take away from noncompetent Indians?

Mr. GOSLIN. He would not have the right to allotment. The allotment of any funds derived from the allotment or from the sale of his timber would be under the control of another party, a guardian or administrator.

Mr. CARTER. It is not that way now?

Mr. GOSLIN. It is that way now.

STATEMENT OF MR. WILLIAM LUFKINS, WHITE EARTH RESERVATION, MINN.

Mr. ELSTON. Tell the committee what you want us to know.

Mr. LUFKINS. In the first place, I came to represent at least 2,500 people from the White Earth Reservation. I expect to be at the regular meeting later and at this time I do not very much like to give out something that I want to present at that time, because I am an Indian, a hunter, and I used to hunt geese. I went for a goose where there was a bunch of them; they would tell me that they were there, and I do not like to do that.

Mr. ELSTON. You might say whether you are in favor of the proposition generally presented by this delegation here to-day.

Mr. LUFKINS. I could not say that.

Mr. ELSTON. Do you want to go into details here at all to-day?

Mr. LUFKINS. Just a little.

Mr. ELSTON. Go ahead with what you want to say.

Mr. LUFKINS. In the first section of the bill—that is, the commission—I see there is a bunch of jobs in it. There is a commission of three, one to be appointed by the President of the United States, one by the Secretary of the Interior, and another by the president of the general council of the Minnesota Chippewas. There are two factions on the White Earth Reservation and two councils. Our council has been incorporated under the State of Minnesota and we have our certificate of incorporation. Of course, we have been temporarily enjoined at this time by the supreme court of the State. We do not care about this commission at the rate of \$10 a day. Of course, the treaty stipulation of 1889, if you will follow that alone, there are other treaty rights that would take away from us.

Mr. ELSTON. What is your business?

Mr. LUFKINS. I am a laborer. I do general work on the iron range, sample ore.

Mr. ELSTON. Did you come down representing some other bands of Indians?

Mr. LUFKINS. Yes. There are factions on the White Earth Reservation and there is one faction that I am sent down here from.

Mr. CARSS. For whom do you work on the Mesabi?

Mr. LUFKINS. For the Wilcox Mining Co., near Brainard.

Mr. ELSTON. By whom were you appointed and who pays your expenses down here?

Mr. LUFKINS. I pay my own expenses.

Mr. ELSTON. Who asked you to come?

Mr. LUFKINS. The White Earth Chippewa, one of the factions.

Mr. ELSTON. At a council meeting?

Mr. LUFKINS. Yes, sir.

Mr. KELLY. Is that a majority or a minority faction?

Mr. LUFKINS. A minority faction. We absolutely have no representation in the general council.

Mr. KELLY. You are a minority and you are afraid that if one man is named on the council that you will not be considered at all?

Mr. LUFKINS. We want representation not on this commission but on the election, on the recommendation.

Mr. HAYDEN. This original treaty of 1857 was adopted by a two-thirds vote of the Indians, was it not? Supposing we were to change the terms of that treaty, would you have to submit it to a vote of the people in the same way the original treaty was drawn? Would not that give you protection?

Mr. LUFKINS. There are some pending suits that are to be instituted which would conflict—null our case.

Mr. HAYDEN. You were complaining that you did not have representation in these negotiations?

Mr. LUFKINS. In those negotiations in the forming of this bill.

Mr. HAYDEN. If whatever is done by the people who negotiate the legislation must be submitted to a vote of the people, they can then pass on it and in that way get direct action on whether they approve of it or not.

Mr. LUFKINS. Yes. But you see the committee is dominated by the mixed bloods of the White Earth Reservation. We split last summer because we wanted representation. The majority rules. On the White Earth Reservation we have got to compete with automobiles and the latest methods of corrupt practices. They run 60 automobiles night and day gathering these men. An Indian, what does he know about these political wires.

Mr. HERNANDEZ. Were you at the council held on the White Earth Reservation?

Mr. LUFKINS. Yes, sir.

Mr. HERNANDEZ. Was it held by a majority of the people there on the White Earth Reservation?

Mr. LUFKINS. Yes; there was probably present 600 or 700 people.

Mr. HERNANDEZ. Do you represent here the majority or minority of the people; which faction?

Mr. LUFKINS. The minority of the White Earth.

Mr. HERNANDEZ. You are the minority?

Mr. LUFKINS. On the White Earth Reservation; yes, sir.

Mr. HERNANDEZ. Then, of course, all your deliberations in the council provide that the majority shall rule, do they not? In all legislative meetings and bodies and councils the majority must rule.

Mr. LUFKINS. The majority must rule, yes; but there is a question again which I do not like to bring up at this time, and I would not like to answer it at this time. Please excuse me on that, because I want to consult them.

Mr. COLE. Do those factions have names—one of them republican and the other democratic?

Mr. LUFKINS. No, sir; One is full bloods and the other mixed bloods. That makes the difference.

Mr. SINCLAIR. Who are in the majority?

Mr. LUFKINS. The mixed bloods are in the majority on the White Earth Reservation.

Mr. SINCLAIR. The mixed bloods rule. then.

Mr. KELLY. Would you say that the majority is an honest majority of the people on the White Earth?

Mr. LUFKINS. Yes.

Mr. ELSTON. We thank you very much for your statement, Mr. Lufkins. I understand you will want to be heard on this later.

Mr. MERITT. Mr. Paquette would like to be heard. He is from the Nett Lake Reservation.

STATEMENT OF MR. F. H. PAQUETTE, NETT LAKE RESERVATION, MINN.

Mr. ELSTON. Give your business and residence.

Mr. PAQUETTE. My business is Indian missionary. I am located at Boise Fort Reservation at Nett Lake Agency.

Mr. ELSTON. What tribe are you a member of and what reservation?

Mr. PAQUETTE. The Chippewa Tribe, Boise Fort Reservation.

Mr. ELSTON. Go ahead.

Mr. PAQUETTE. I do not fully understand the argument, Mr. Chairman, this morning, at this meeting, and practically I have nothing to offer contrary to the proceedings of this committee meeting. I came here with the delegates from the Boise Fort Reservation, and they present us this bill; that is, before this committee met this morning, and after reading and interpreting it thoroughly to them, I asked them what they thought about the bill. They say we have nothing to say at all. We will take it home and consult the rest of the members about what this bill contains. I will tell you, Mr. Chairman and members of the committee, the Boise Fort Indian is neutral in these two factions and has been neutral. Last year, by the direction of the Indian Affairs we met as a delegation at Cass Lake to decide this great indifference between the Chippewa Indians of Minnesota.

When the meeting was opened by Mr. Dickens, who was sent by the department there, again arose a faction, after we had presented our credentials as delegates from the Boise Fort Reservation: a faction arose by the White Earth (Minn.) people and that is why I say we are neutral in this indifference, whereas we had presented our credentials as legal delegates to this general council by order of the department of Indian affairs in presenting our credentials there was a division arose between the White Earth delegations, which divided the house, I might state. The full-bloods walked out and made a council of their own while the general council went on its business in its deliberations, and we were betwixt and between, we Boise Fort Indians, and when we found out the way the question stood, although we had presented our credentials, we stayed to this general council where we were sent to attend.

Mr. ELSTON. You stayed there and did not walk out?

Mr. PAQUETTE. We stayed.

Mr. ELSTON. State in a few words just what the difference is between these two factions. What does the full-blood faction want and what is it they can not get? What is that the half bloods have got that the full-bloods do not want to have? State that clearly.

Mr. PAQUETTE. I do not know whether I am authorized to make such a statement at this hour.

Mr. ELSTON. You would rather wait until March 8 to bring this matter fully out?

Mr. PAQUETTE. Because I would have to consult my people, as I stated, and after viewing this bill and studying it thoroughly, before we can come out and say we want to amend this and we approve that and disapprove this. I am not in shape to stand here in this committee room and suggest what ought to be done as an interpreter for the delegation.

Mr. ELSTON. As near as you can make it out, what is the recommendation that your people want to make right now? What is your suggestion?

Mr. PAQUETTE. I might state here again that we came on local affairs; we did not come here on general affairs. We presented our council proceedings and resolutions to the office and we got our reply and some of that is not really satisfactory as we would like to have it, but under the conditions we are told by the Indian Office that all our appropriations are cut to carry out the wishes of your people at this time.

Mr. ELSTON. You know, Mr. Paquette, that that is true, that Congress has tremendously cut the total of the Indian appropriation bill, and that the Indian Bureau has not as much money as it expected to have and wanted to have. You had better explain that to your people.

Mr. PAQUETTE. We wanted road money. We have not enough roads on the Boise Fort Reservation. Of course, since the appropriation bill is done with we are unable to have, at least, \$10,000. I talked to the legislative committee and I talked with the Commissioner of Indian Affairs. They say you can not get any money.

Mr. MERITT. In that connection, I will say that we had included in our estimates an appropriation for roads in the Chippewa country and representatives of the general council had that item cut out on the floor of the House.

Mr. HERNANDEZ. That is tribal funds.

Mr. MERITT. Not available without authority of Congress.

Mr. ELSTON. Have you anything further to offer?

Mr. PAQUETTE. No.

Mr. MERITT. Did you want to state anything, Mr. Paquette, that you pointed out this morning, so the committee may get the benefit of it.

Mr. PAQUETTE. We have talked the matter over in regard to the appointment of this commission of three. Now, as I was talking to the Indians representing the Boise Fort Reservation, they claim they would rather have a committee appointed by the President, secretary, in fact, have all these three appointments right from Washington. It would be more satisfactory to them rather than any of us to appoint the other member of the committee of three.

Mr. ELSTON. If that other appointment is made, you are afraid it will be from one of the other factions and there will not be fair dealing.

Mr. MERITT. You also pointed out an objection to the \$15,000 for a period of five years.

Mr. PAQUETTE. That is another thing they have talked about. They thought best to have this appropriation annual instead of extending it for five years.

Mr. ELSTON. Who is the next witness?

Mr. MERITT. Mr. Graves.

**STATEMENT OF MR. PETER GRAVES, CHIPPEWA INDIAN,
MINNESOTA.**

Mr. ELSTON. What is your business?

Mr. GRAVES. I was a Government employee until last May. I resigned because the mixed-bloods faction accused me that my motive was to prolong the Indian Bureau so that I could hold my position, and for those reasons I resigned.

Mr. ELSTON. What are you doing now?

Mr. GRAVES. I was census enumerator before I left a short time ago.

Mr. ELSTON. Who sent you here?

Mr. GRAVES. The Red Lake Band.

Mr. ELSTON. Did they pay your expenses?

Mr. GRAVES. They made a collection and paid my way down and have authorized the commissioner to look at my expense while down here.

Mr. ELSTON. Go ahead with your views.

Mr. GRAVES. I wish to reserve my statement until the proper time.

Mr. ELSTON. What do you wish to state now?

Mr. GRAVES. I have to consult an attorney for my statement as to the proposed bill, the Ellsworth bill. Of course, let me mention about Mr. Paquette's reference to the general council of the Chippewas out in Minnesota at Cass Lake last July. For the rest of the provision, the first part of this item says that there is to be a commission created by this act and it would take three men. These here full-blood Indians, these men here, I could not understand anything what they had said. I was trying to get something so that I could probably obtain some interest in the statements they have made, but I will frankly state that I did not understand what they are talking about. Such is the condition of these Indians in Minnesota. They are really noncompetent. Now, these mixed bloods will make you believe that all the Indians in Minnesota are just the same as they are, merchants and lawyers and such as that. Now, Walter F. Dickens was our superintendent at Red Lake and he was transferred to White Earth. After he was transferred to White Earth his chief clerk stayed there at Red Lake, and this chief clerk approached me and said: "Pete, it would be the correct thing if the Red Lake Band would reenter into the general council of the Minnesota Chippewas. That would be the best thing for them to do." I told him then that I did not think so nor would I advise the Red Lake Band to do so as that would be just to put themselves into a scheming gang that would dictate with regard to their affairs and misrepresent them here of their real conditions. Mr. Cross, the present superintendent there at the Red Lake Agency, a few days afterwards told me that he got a letter from Supt. Dickens, of the White Earth, suggesting that he use his influence with the Red Lake Indians to reenter into the general council of the Minnesota Chippewas. I came down here as an observer of the council. During this session at Cass Lake Mr. Cross came down also, and he asked me, "How is this council going to come out; what do you think about it?" I said, "Since Supt. Dickens is going to have temporary charge of the council he is going to have that council with all these

mixed bloods." I said, "You know that as well as I do." He said, "Yes, I think so."

I did not see this bill until a short time ago, and that \$10 a day job is for Walter F. Dickens. I was coming down to Bemidji, and should Mr. Dicken's father has a farm between Bemedji and Ridgway and I was riding on the train. He was talking to this old man, talking to the father of Walter F. Dickens, talking to a man they knew, and he said, that Dickens, I like that place down in Texas, that he was going back soon, that John Morrison was going to have a good position for him.

Just by accident I found that out and that is where it says, is put in this bill where it will give Mr. Dickens \$10 a day for having turned over the general council—over to these mixed bloods.

Mr. ELSTON. Are you competent; have you ever been declared competent?

Mr. GRAVES. No; I am a ward of the Government.

Mr. ELSTON. Have you ever applied for competency?

Mr. GRAVES. No, sir.

Mr. ELSTON. Why not?

Mr. GRAVES. Because I am not in position to do so at present.

Mr. ELSTON. Why not?

Mr. GRAVES. Because I am unallotted.

Mr. ELSTON. And do you want to get competency?

Mr. GRAVES. No, not just at the present time.

Mr. ELSTON. Why not?

Mr. GRAVES. Because I do not want my people to be robbed like the White Earth Indians were robbed. We want the protection of the Government of the United States. In the council of the Red Lake Indians, December 27, 1918, they called on the Government of the United States for protection from these mixed bloods—designing mixed bloods.

Mr. ELSTON. You are a mixed blood?

Mr. GRAVES. Yes, sir; I am a mixed blood.

Mr. ELSTON. Which predominates in numbers, mixed bloods or full bloods?

Mr. GRAVES. In the Red Lake Reservation?

Mr. ELSTON. Well, generally speaking; I mean the persons who are interested in this bill.

Mr. GRAVES. Well, of course, now, I can only speak for the Red Lake people.

Mr. ELSTON. How about the Red Lake Indians?

Mr. GRAVES. Well, the Red Lake Indians, I should judge, about 95 per cent—

Mr. ELSTON. Of what?

Mr. GRAVES. Ninety-five per cent of those want the Government to protect them. Ninety-five per cent of these want the protection. Five per cent of those mixed bloods would sell themselves for little to the chiefs of the mixed bloods.

Mr. CARTER. How many full bloods are there?

Mr. GRAVES. Well, sir; I can not give you that information, because there is a good deal of white blood that has been mixed in.

Mr. ELSTON. You do not know anything about the other people?

Mr. GRAVES. I am not able to make any statement pertaining to the other part.

Mr. ELSTON. Well, now, in just two sentences—in just a few sentences—what would you suggest to the committee; what would you say that we ought to do now?

Mr. GRAVES. The Red Lake Indians want to be strictly let alone by the mixed bloods. They want to be left alone. You can leave the Red Lake Indians out. The Red Lake Indians want no allotments, and the mixed bloods have got nothing to do with the affairs of the Chippawa Indians. The Red Lakes do not have anything to do except with the affairs of the Chippawa Indians.

Mr. ELSTON. Well now, gentlemen, I understand that you have explained to your representatives about what your objections are to the bill, and that you want this bill considered very carefully. What the committee wants is information from you, and we want you to help us. Now, you have not offered any definite suggestions, but what you have said is very general. You have come here and made general objections. Of course, this is a big question and we are going to proceed carefully on it. Is there anybody else present that would like to be heard? We are giving you a full hearing, and we want to hear what you have to say.

Mr. GOSLIN. There is one further remark that I would like to make, and that is this: Any man that has a little Indian blood in his veins who becomes enrolled to a certain band of Indians is a member of that tribe, but is not a titleholder and, therefore, if you will investigate, you will find that a majority of them were members that were enrolled.

Mr. ELSTON. We are very glad to have that statement, Mr. Goslin. Now is there anything else? If there is nothing else, and if the committee has heard everything that you have to say—you understand there will be a later hearing and we will go into this further.

Mr. BEAULIEU. Mr. Chairman. I would like to make a statement.

Mr. ELSTON. I do not think it would be proper to hear any outsiders, or anyone opposed to this at this time, inasmuch as this hearing was for this particular group that came here, and I think we can hear you sometime later, we can hear your statement at some other time on the matter. The committee is not going to decide this thing in a minute and there is no use of bringing up a controversy because we do not want to have that at the present time.

Mr. BEAULIEU. Why, what I had in mind was I wanted to say that perhaps you do not seem to understand—

Mr. ELSTON. Well be brief.

STATEMENT BY MR. FRANK D. BEAULIEU, WHITE EARTH, MINN.

Mr. BEAULIEU. There seems to be objection to this bill for the reason that they have an old treaty claim, which is the treaty of 1889, which it conflicts with or wipes out. Now, this bill which you are discussing provides that all claims arising under any treaty where the Indian has suffered any damage shall be referred to a Court of Claims, and I think that if the gentlemen will read that bill, if someone will read it who understands it, and explains it to them, I do not think there will be any objection. I believe the reason there is objection is because they do not understand the bill.

Mr. ELSTON. I think that Mr. Goslin has read the bill, and he desires to take the bill, would like to read it over and take it back to the council, and then tell us what they want. That should be done immediately, and we will expect when this March 1 hearing is held, to have some information on the subject.

Mr. GRAVES. I wish to tell Mr. Beaulieu that I have a copy of the bill and it is not my purpose to say anything with regard to the Minnesota Indians. Being from the State of Wisconsin, I do not see that it has anything to do with the Minnesota Indians.

Mr. ELSTON. I will tell you gentlemen, for these delegates here now, what we want to have, if you have any objections, specific objections, not general objections. Anybody can object generally. Anybody can find a little bit of fault with anything. We want you to bring specific instances here and we want to get right down to the bottom of the thing, and we want you gentlemen to come back here and say exactly what you want. We want you to consider this thing, and act like ordinary people, and we want to know what the majority think about this. When we get the facts we want to do the right thing, and we are going to do the fair thing, but somebody is going to be disappointed, if we are going to do anything at all. Now, we want you to come here and tell us just about as near as you can what ought to be done, and we will take it up from that standpoint.

Mr. GOSLIN. I just volunteered as an interpreter for the Indians, because they did not have anybody here from Minnesota, and that is why I offered my services in connection with this.

Mr. ELSTON. I think you have done very well, Mr. Goslin. What you ought to do is not to encourage these people to deal in small petty matters. Now, get at this thing and find out what it means, and come back here and tell us just exactly what it means. We have got a pretty fair idea of it to-day, and we will consider it pretty thoroughly.

(Whereupon, at 12.10 o'clock p. m., the committee adjourned.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 8, 1920.

The committee on this day met.

The CHAIRMAN. The time set for this hearing has arrived. We are here to listen to the statements of the authorized representatives upon and to consider bill No. 12103, which is a measure formulated for the closing up of many of the matters of the Chippewas of Minnesota. A few weeks ago members of various interests in that section of the country came before this committee to be heard on these matters, and it was decided that, as there were so many viewpoints, it would be well for all of the interests to consult with each other with a view to coming before the committee at this time with a unified arrangement, if possible, so that there might be less conflict in the interests of all parties concerned. The chairman has been presented this morning with a proposed bill for closing up these matters, but having so recently received it he has barely had the time to read it, and believes that it would be just as well, under the

circumstances, to listen to those who are here in authority with regard to the issues of all of the different interests there. With that end in view we are now ready to open the hearing and to have those who desire to be heard qualify. It is my understanding that the authorized representative of the Chippewa band at the present time is Mr. Webster Ballinger. If I am correct in that and he qualifies he probably will be the first witness heard. If he is here we will hear him now. Mr. Ballinger, will you qualify yourself by stating who you are and whom you represent?

STATEMENT OF MR. WEBSTER BALLINGER.

Mr. BALLINGER. Mr. Chairman, my name is Webster Ballinger. I am an attorney of this city. I am the authorized attorney of the Chippewa general council. I have not with me this morning the records of the general council as I left them with the Indian Bureau week before last; but in this connection and at this point I wish to ask the committee for leave to insert the authorization of the general council under which I appear here in this matter as well as in other matters for them.

The CHAIRMAN. Can you bring that with you at the next hearing?

Mr. BALLINGER. I will bring it with me at the next hearing.

The CHAIRMAN. Now, Mr. Ballinger, how much time will you require for yourself in this matter, without considering interrogations which may enter into the discussion, with regard to such remarks as you may desire to make?

Mr. BALLINGER. Mr. Chairman, this is a matter that covers a long series of years. Questions will arise in connection with this bill that will have a bearing upon other matters that will come before this committee at a later date; and it is the desire, my desire, and the desire of my clients, that we present to you the real questions which have been causing friction between the department and the Indians. and in order to do that, Mr. Chairman, it will probably consume two days.

Mr. KELLY. Do you mean that it will require two days for your testimony alone, or two days for your argument and testimony?

Mr. BALLINGER. Two days for my argument and testimony.

The CHAIRMAN. What do you mean by two days? It is the intention of the committee to hold these hearings from 10.30 o'clock to-day until 1 o'clock; then if it is agreeable to the members we will meet at 10 o'clock after that until the hearing is completed.

Mr. BALLINGER. Then, Mr. Chairman, I think that I can conclude by to-morrow, by adjournment to-morrow. That is, my statement and all the testimony that will be offered for the general council, it will take until adjournment to-morrow.

The CHAIRMAN. That will probably be agreeable; but I will ask you, in the whole history of the thing to make your remarks just as concise as you can. What we are interested in is to correct the errors of the past, if there were errors, or if there were conditions that existed years ago and are modified by the current of events. and I would ask that you confine your argument as much as possible to what can be done to correct the situation as it exists to-day and not to detail too much of the history.

Mr. BALLINGER. Precisely, Mr. Chairman. It is my desire to present to you the wrongs that have long been inflicted upon the Chippewas and the remedy; and in order to do that it will be necessary to deal with sufficient of the facts to lay the basis.

The CHAIRMAN. All right, you can proceed.

Mr. BALLINGER. I want to make this request of the committee, that if during the course of my argument I go too much into detail I should be very glad to have a suggestion from the committee. It is my desire to shorten this as much as possible and simply to lay the basic facts before the committee so that you may have them for your guidance.

The CHAIRMAN. All right, now proceed.

Mr. BALLINGER. Mr. Chairman, in the inception of this hearing H. R. 6461 was designated as the bill. Thereafter upon the request of Congressman Ellsworth, H. R. 9924 was substituted. On that day or a day or two afterwards Congressman Ellsworth presented H. R. 12103, which is the bill the department considered in connection with the substitutes the department has submitted; and, in that connection, there are two separate bills submitted by the department, one a jurisdictional bill and one dealing with the administrative features, and I was going to ask to have those bills introduced so that they might be available. Now, Mr. Chairman, since our last meeting the general council and the Indian Bureau have made a very earnest effort to get together upon the proposed legislation. H. R. 12103 has been carefully scrutinized by the Indian Bureau. No jokers have been found, but in connection with the consideration of that bill some fundamental differences have arisen which I may briefly state.

The first one is as to the manner in which this corrective legislation shall be finally enacted. The general council insists that as this estate was created and this property put in trust in the hands of the United States under an express agreement that any changes or modifications of that agreement should be with the assent and approval of the Indians. They suggest that for two reasons: First, they believe that it is only fair to the Indians; and, second, they believe that legislation by Congress direct without the assent of the Indians might lay the Government of the United States liable for any claims that might arise out of it. It would at least leave open a serious legal question as to the power of Congress to deal with this estate in the exercise of its plenary power. Now, the Indian Bureau takes the position that Congress alone without the assent of the Indians has the absolute power to do with this estate as it sees fit. The Indians take issue with the department upon that question. Now, the second, and one of the most important questions deals with the Red Lake Reservation. The Red Lake Reservation is one of the remnants of the property that was dealt with under the agreement of 1889. That reservation stands intact to-day with the exception of a cession of 260,000 acres made in 1904. Upon that reservation the Indians are to-day residing in their old tribal condition.

Not an allotment has been made in 31 years, in absolute violation of the agreement of 1889, and the Indian Bureau insists that those Indians shall be continued in their present deplorable and pitiful condition, as I shall later describe. The general council, on the other hand, insists that those Indians should be given their allotment—

shall be put upon their feet and shall be given the opportunity to make men and women of themselves. Now, Mr. Chairman, and gentlemen of the committee, I will now deal with this question of title to the Red Lake Reservation, for that is one of the questions upon which the greatest difference of opinion has thus far existed. Mr. Meritt, so that we may have absolutely no difference of opinion, the Indian Bureau will concede, will it not, that in 1854 the Chippewa Tribe of Indians owned their property in common, and that under the treaty of 1854 came the great division between the Chippewas of Lake Superior and the Chippewas of the Mississippi, which now constitute the Chippewas of Minnesota? I pause, with the permission of the committee, to find out whether there is any difference there.

MR. MERITT. I do not care to make any statement or answer any questions at this time or make any concessions on the argument of Mr. Ballinger. I believe, Mr. Chairman, that I could save a little time for the committee by simply making a short statement at the beginning of this argument.

THE CHAIRMAN. Is that agreeable to Mr. Ballinger?

MR. BALLINGER. Anything that will shorten the hearing is agreeable to me.

MR. MERITT. Mr. Chairman, under date of January 16, 1920, we submitted a report to the chairman of this committee, inclosing a copy of the jurisdictional bill, which would enable the Chippewa Indians to go to the Court of Claims on any controverted questions. This bill is so broad that they can go into the Court of Claims and submit all their alleged claims against the Government. I believe it will be admitted by Mr. Ballinger that this jurisdictional bill is reasonably satisfactory to the Chippewa Indians.

THE CHAIRMAN. Let me ask right there: Does Mr. Ballinger admit that that bill is reasonably satisfactory to the Indians?

MR. BALLINGER. There are some changes to be made, Mr. Chairman.

THE CHAIRMAN. Well, then, it is not reasonably satisfactory.

MR. MERITT. There are a few proposed changes in the bill that I think we can get together on; and in order that they may appear in the record I will ask that this report and the bill be printed at this time.

THE CHAIRMAN. The jurisdictional bill?

MR. MERITT. Yes, sir.

THE CHAIRMAN. If there is no objection the report to which Mr. Meritt refers may be printed at this time.

(The report of the Indian Bureau to the chairman of the Committee on Indian Affairs under date of January 16, 1920, follows:)

DEPARTMENT OF THE INTERIOR,
Washington, January 16, 1920.

MY DEAR MR. SNYDER: I have the honor to acknowledge the receipt of your letter of October 16, 1919, submitting for an expression of my views a copy of H. R. 9924, a bill to aid in winding up the affairs of the Chippewa Indians of Minnesota.

That portion of the bill which relates to the closing of the affairs of the Chippewa Indians of Minnesota is being considered and will be the subject of a later communication. I see no objection, however, at this time to conferring jurisdiction on the Court of Claims, under reasonable and fair restrictions and limitations, to hear, determine, and render judgment on such claims as the Indians have against the United States.

I have accordingly prepared and transmit herewith a draft of a proper jurisdictional bill, conferring jurisdiction on the Court of Claims, with right of appeal to the

Supreme Court of the United States, to hear and determine any and all claims which the Indians may have against the Government.

I see no objection to the enactment of the legislation herein proposed, and recommend that the draft of the bill submitted be substituted for H. R. 9924.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

Hon. HOMER P. SNYDER,

Chairman Committee on Indian Affairs,

House of Representatives.

A BILL Authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all claims of whatsoever nature which the Chippewa Indians of Minnesota may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said tribe from the United States under any treaty or agreement, or for the misappropriation of any of the funds of said tribe, or for the failure of the United States to lawfully administer the property of said Indians held by it in trust; and jurisdiction is hereby conferred upon the said Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims which said tribe, or any band thereof, may have against the United States, it being the intention of this act to allow the said Court of Claims unrestricted latitude in adjusting and determining the claims submitted hereunder, so that the rights, legal and equitable, both of the United States and said Indians, or any band thereof, may be fully considered and determined, and to render judgment thereon.

SEC. 2. That if any claim or claims be submitted to said court, it shall settle the rights therein, of each and all the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been lawfully made upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a setoff in such suit or suits, and the United States shall be allowed credit for any sum or sums, including gratuities, heretofore paid or expended for the benefit of said tribe or any band thereof. The claim or claims of the tribe, or band or bands thereof, may be presented separately or jointly by petition or petitions, subject, however, to amendment; suit or suits to be filed within three years after the passage of this act; and such suit or suits shall make the petitioners party plaintiff and the United States party defendant, and any band or bands of said tribe may be joined therein as the court may order. Such petition or petitions shall set forth all the facts on which the claims for recovery are based, and shall be signed by the attorney or attorneys employed, as herein authorized, and no other verification shall be necessary. Letters, papers, documents, and public records, or certified copies thereof, bearing upon the claims presented, may be used in evidence, and the departments of the Government shall give the attorney or attorneys of said tribe, or bands thereof, access to any such letters, papers, documents, or public records for the purpose of making copies thereof, as such attorney or attorneys may deem necessary.

SEC. 3. That if it be determined by the Court of Claims in the suit or suits herein authorized that the United States Government has wrongfully appropriated or disposed of any lands belonging to the said tribe of Chippewa Indians, or any band thereof, damages therefor shall be confined to the value of the lands and timber thereon at the time of such appropriation or disposal, together with interest thereon at 5 per centum per annum from the date thereof, and the decree of the court with reference thereto shall annul and cancel all claim, right, and title of the said Chippewa Tribe, or any band thereof, in and to such lands and timber, and settle all damages for any wrongs or injuries, if any, committed by the Government of the United States with reference thereto.

SEC. 4. That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits, to be paid the attorney or attorneys employed therein by said tribe or bands of Indians under contract or contracts made and approved as provided by existing law; but in no event shall the fee or fees and expenses decreed by said Court of Claims be in excess of 10 per centum of the amount recovered. The fees and expenses decreed by the court to the attorney or attorneys of record shall be paid out of any sum or sums recovered in such suit or suits; and the proceeds of all amounts recovered, after the pay-

ment of fees, charges, and expenses, shall be deposited in the Treasury of the United States in the principal fund of the Chippewa Indians of Minnesota.

SEC. 5. That jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, to hear, determine, and enter judgment against the United States or the Red Lake Band of Chippewas, for any amount or amounts that may be found due the Chippewa Indians of Minnesota (except the Red Lake Band), arising under or growing out of any violations of the agreements negotiated under the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), which injuriously affect the legal rights of the complainant bands to the advantage of the said Red Lake Band. Suit shall be commenced by a single petition filed by the complainant bands in said court within two years after the passage of this act, which shall set forth all the facts on which the complainants base their right to recovery. Such petition may be signed by the attorney or attorneys legally employed by the complainants to represent them in said suit, and no other verification shall be necessary.

In case of recovery the Court of Claims shall render judgment against the United States, or the Red Lake Band, as shall be deemed legal and just, based upon the facts established by the evidence. Letters, papers, documents, and public records, bearing on the matter in suit, or certified copies thereof, may be used in evidence, and the departments of the Government shall give the attorney or attorneys of the respective parties access to all such letters, papers, documents, and public records, for the purpose of making copies thereof, as may be deemed necessary by such attorneys. The United States and the Red Lake Band shall be represented by the Attorney General of the United States: *Provided*, That the Red Lake Band, if it shall elect so to do at a general council of the band, may employ counsel, under existing law, to represent it; and the court may determine the fee or compensation to be paid such counsel, which shall not exceed \$5,000, in addition to the expenses incurred, in the event the Red Lake Band is unsuccessful in its defense; and in the event the Red Lake Band is successful in its defense, such fee, including costs and expenses, shall not exceed 10 per centum of the amount claimed by the complainant bands, payment to be made from any funds standing to the credit of the band at the time of the filing of the petition in such suit.

The amount recovered, if any, shall be deposited in the principal fund of the Chippewa Indians of Minnesota, arising out of the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642). Upon the final determination of such suit the Court of Claims shall also determine the fee, and allowances for expenses, as it shall find reasonable and just, to be paid the attorney or attorneys employed by the complainant bands, under contract or contracts made and approved as provided by existing law; but in no event shall the fee and expenses decreed by the court be in excess of 10 per centum of the amount recovered: and the fees and expenses decreed by the court to the attorney or attorneys of record for the complainant bands shall be paid out of any sum or sums recovered in said suit.

SEC. 6. That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all land and timber thereon, ceded to the United States, in trust, under the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), which were subsequently patented to the State of Minnesota under the provisions of the swamp land act of March 12, 1860 (Twelfth Statutes at Large, page 3), which have been disposed of by said State; and for the cancellation of all patents issued to the State of Minnesota covering any such land which has not been disposed of by said State, and for the annulment of all its claim, right, title, and interest in and to such lands as have been listed or certified as swamp land in the interest or on behalf of said State.

Any moneys recovered from said State shall be deposited in the principal fund of the Chippewa Indians of Minnesota standing to their credit in the Treasury of the United States, and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior, and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians: *Provided*, That the Chippewa Indians of Minnesota, if they shall elect so to do at a general council of the several bands, employ an attorney or attorneys, under existing law, subject to the sanction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior, to assist the Attorney General in the preparation and prosecution of such suit, the compensation of the attorney or attorneys so employed to be fixed and determined by the Attorney General, not to exceed ten per centum of the amount recovered, to be paid out of any funds standing to the credit of the Chippewa Indians of Minnesota. Letters, papers,

documents, and public records, or certified copies thereof, may be used in evidence, and the departments of the Government shall accord the Attorney General or the attorney or attorneys of said Indians access to such letters, papers, documents, and public records as may be deemed necessary by such attorneys.

The CHAIRMAN. Do you want this bill printed, too, at this time?

Mr. MERITT. H. R. 12103, introduced by Mr. Ellsworth in the House of Representatives on January 27, 1920, was referred to the department for a report and recommendation. We went over this bill with a great deal of care in the Indian Bureau. There were conferences among the employees of the Indian Bureau, and we also held conferences with the different factions of the Chippewa Indians. We held conferences with Mr. Ballinger and the representatives of the General Council, and also with Mr. Graves, who is here opposing the General Council, and also with Mr. Henderson, who is the attorney of the Red Lake Indians. We have prepared a report to the chairman of the committee, which we believe covers the essential points contained in H. R. 12103, and will furnish all the legislation that is necessary to meet the needs of the Chippewa Indians. In order that the committee may have the benefit of this report I will ask that it be printed in the record at this time, together with the substitute bill which has been prepared by the department.

The CHAIRMAN. Unless there is objection, it is so ordered.

(The said report follows:)

DEPARTMENT OF THE INTERIOR,
Washington, March 8, 1920.

DEAR MR. SNYDER: Further reference is made to your letter of January 20, 1920, submitting for report by this department a copy of H. R. 12103, "A bill to aid in winding up the affairs of the Chippewa Indians of Minnesota."

I have carefully read the bill, which, in the main, meets my approval. However, it contains many provisions which require amendment in order that these wards of the Government, now in a transitional period, may be properly guarded and the protection of the United States thrown around them in closing up their tribal affairs.

In view of the length of the bill and the great number of proposed amendments thereto, I have caused it to be rewritten with the desired changes therein and inclose the new draft.

On January 16, 1920, we sent you a substitute bill covering the jurisdictional part of H. R. 9924, which is substantially identical with sections 6, 7, 8, and 9 of the present bill. These sections have accordingly been omitted in the substitute draft transmitted herewith, and it is suggested that the jurisdictional measure be substituted for said omitted sections, as it is believed that any measure conferring jurisdiction on the Court of Claims should be dissociated from merely administrative matters.

It is recommended that the substitute draft for said H. R. 12103 receive your favorable consideration.

Cordially, yours,

ALEXANDER T. VOGELSAANG,
Acting Secretary.

HON. HOMER P. SNYDER,
Chairman Committee on Indian Affairs,
House of Representatives.

(The said substitute bill follows:)

A BILL For the preparation of additional rolls, allotment of lands, disposition of the lands and funds of the Chippewa Indians of Minnesota, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission of three members, one of whom shall be appointed by the President of the United States, one by the Secretary of the Interior, and one by the General Council of the Chippewa Indians of Minnesota, shall be appointed within thirty days after this Act shall become effective. The members of said commission so appointed shall, before entering upon the discharge of their duties, take an oath to support the Constitution of the United States and to faithfully

discharge the duties of their office. Said commission shall select a chairman and the members shall each receive compensation at the rate of \$10 per day and their actual and necessary expenses, when actually engaged in the performance of their official duties, said salaries and all expenses to be paid upon itemized accounts approved by said commission. In the performance of the work herein authorized said commission is given full power to employ all clerical and other help necessary for the proper conduct of the work, the power to compel the attendance of all witnesses, the production of all papers, to administer oaths, and to obtain all facts necessary to the proper performance of its duties. Said commission shall immediately proceed to add to the existing allotment rolls of the Chippewa Indians of Minnesota, except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted, the name of any person in being at the time said roll is made, and lawfully entitled to an allotment of land under the Act approved January 14, 1889 (Twenty-fifth Statutes at Large, page 642), and who had not theretofore been enrolled and allotted, said roll to be completed within one year from the date the commission is organized. Upon the completion of said rolls the Secretary of the Interior shall immediately proceed and allot, in conformity with this Act and the Act of February 8, 1887 (Twenty-fourth Statutes at Large, page 388), to every person so enrolled and then in being who had not theretofore received an allotment, out of any reserved or undisposed of ceded lands to which no valid claim has been initiated, one hundred and sixty acres of land, in conformity with legal subdivisions, eighty acres of which shall be chiefly valuable for agriculture, to be selected by the allottee, if an adult, and if a minor by the father, mother, or guardian having charge of his or her estate, preference being given in the order named, and if the enrollee be incompetent or absent, said selection shall be made by some suitable person akin to him or her; that each person so entitled to an allotment shall have the right where it is possible to take his or her allotment on land, the improvements on which belong to him or her, priority of selection to be accorded in the order of actual prior settlement; that so far as practicable the lands allotted shall be contiguous. Selection of allotments shall be made within sixty days after such enrollee, or his or her representative, shall receive notice of his or her right to select an allotment, and should any such enrollee or his or her representative fail or refuse to make such selection within said time then the Secretary of the Interior shall proceed and arbitrarily make an allotment of land in the name of such enrollee, due care to be taken that proper allotments are made to all persons entitled thereto: *Provided*, That every such allotment shall be and remain nontaxable so long as it remains the property of the allottee, not exceeding twenty-five years, and every such allotment made to or in the name of any person whose name appears upon the rolls of "incompetent Indians," hereinafter provided for, shall remain inalienable so long as such person shall occupy the status of an incompetent Indian and the land shall remain the property of the allottee.

Said commission is also directed to prepare a roll, to be known as the "Roll of incompetent Minnesota (Chippewa Indians)," upon which shall be inscribed the name, age, sex, allotment number, and description of the allotments of all minors and incompetent adult persons of more than one-half Indian blood allotted or to be hereunder allotted off the White Earth Reservation, except the Chippewas residing on and belonging to the Red Lake Reservation and of all minors and incompetent full bloods allotted or to be allotted on the White Earth Reservation. Within thirty days after the completion of this roll the original shall be filed in the office of the Bureau of Indian Affairs, and one copy, duly certified to by said commission, shall be filed in each and every agency maintained among the Chippewas in Minnesota and one in each and every county recording office in the separate counties in which any of such Indians have been allotted, which rolls shall be open to inspection at all times during usual office hours. Said commission shall also prepare two other rolls, upon one of which shall be inscribed the name, age, sex, and residence of all unallotted adult persons living at the date of the approval of this Act who are entitled to share in the distribution of the tribal funds arising under section 7 of the said Act of January 14, 1889, and who are of one-half or less Indian blood; also all persons of more than one-half Indian blood who may be found competent to handle their shares of such funds. Upon the second roll shall be inscribed the name, age, sex, and residence of every unallotted minor and adult person then in being of more than one-half Indian blood who is incompetent to handle his or her share of said fund.

Within six months after the completion of said rolls the Secretary of the Interior shall pay, or cause to be paid, to every such adult Minnesota Chippewa Indian whose name does not appear upon said rolls as an incompetent all funds then standing to his or her individual credit; and the lands allotted or to be allotted under this act or prior acts to any such Indian person shall by operation of this act pass in fee simple title to the allottee without any further conveyance whatsoever. All minors of one-half Indian blood or less whose names appear upon said roll of incompetents, either

of whose parents has not been enrolled thereon, shall, upon becoming of legal age, be possessed of all personal and real property held in trust for them in their name, in like manner and to the same extent as enrolled persons whose names do not appear on said rolls of incompetents, and, upon the appointment by a court of competent jurisdiction and the qualification of a legal guardian of any such minor child all personal property standing to such child's credit shall be forthwith delivered over to such guardian: *Provided*, That the Secretary of the Interior shall continue to have authority, under existing law, upon proper evidence, to adjudge any person whose name appears on said rolls of incompetents to be competent, and upon such adjudication said person shall be possessed of all property held in trust in his or her name by the United States, or by its officers and agents, free of all restrictions: *Provided further*, That patents in fee shall be issued by the Secretary to all such persons upon their becoming of lawful age or upon their being adjudged competent by the said Secretary: *And provided further*, That all conveyances of allotted lands, the restrictions upon which as to sale and alienation are removed by this act in order to be valid shall hereafter be acknowledged before a United States commissioner or a judge of a court of record in the State of Minnesota or in the State in which the person resides: *And provided further*, That the rolls herein authorized to be made shall, for the purposes hereof, when finally approved, be conclusive as to the rights, age, and status of every Minnesota Chippewa Indian.

Upon the completion of all of said rolls the Secretary of the Interior shall withdraw from the principal fund of the Chippewa Indians of Minnesota a sufficient amount to pay therefrom to every person entitled to share in the distribution thereof, as shown by said rolls and as provided by section 7 of the act of January 14, 1889, the sum of \$300, and shall thereafter, whenever said principal fund may, from the sale of timber, lands, or other property, or from moneys found to be due to said tribe on claims against the United States, if any, be sufficient to enable the said Secretary to do so, aggregate a like amount from said principal fund for like purposes; and when all the tribal property has been sold, and all claims of said Indians against the United States have been determined, collected, and deposited in the trust fund, the total amount thereof shall be divided share and share alike among the persons entitled to share therein, in accordance with the terms of section 7 of the act of January 14, 1889: *Provided*, That before any payment of such segregated funds is made, the Secretary shall cause the then existing rolls of those entitled to participate therein to be corrected, so that the names of all persons thereon not then in being shall be stricken therefrom and the names of all new-born children entitled to share therein, in being on January 1 of the year in which said segregation shall occur, whose births have been reported to the department, shall be added thereto: *Provided further*, That all adult persons whose names do not appear upon said incompetent rolls shall receive their respective shares of said payments in cash. The shares to which those persons whose names appear on said incompetent rolls, including minors, are entitled shall be transferred on the books of the Treasury of the United States to a fund to be designated and known as "The Chippewa in Minnesota incompetent fund," but segregated to their individual credit on the books of the Indian Office, and shall continue to draw interest, as now authorized by law, at the rate of 5 per centum per annum, and the interest that may accrue thereon shall be paid annually to the members entitled thereto, except in cases of minors, in which cases the interest shall be paid annually to the parent or guardian until the child for whom the interest is so paid arrives at legal age under the laws of Minnesota. In case of minors whose parents have died the interest shall be paid to the legal guardian: *And provided further*, That the amount placed to the credit of each minor whose name appears upon the roll of incompetents, shall, upon his attaining his or her majority, be paid to such member in ten equal payments, one payment each year, and at the expiration of the tenth year the total sum remaining shall be paid to such person: *And provided further*, That if the Secretary of the Interior deem it advisable, he may pay to any such person the full amount of the principal and interest to his or her credit or any part thereof in excess of the payments hereinbefore authorized: *And provided further*, That the amounts placed to the credit of minor children may be paid to their parent or legal guardian for their proper support, in twenty equal payments, one payment each year, including interest, and at the expiration of the twenty-year period the total sum remaining shall be paid to the enrollee; and should any such minor child, whose parent or parents are not enrolled as incompetents arrive at legal age before said payments shall have been fully completed, he or she shall be entitled to receive the full amount then standing to his or her credit and to receive any further payments thereafter without restriction or limitation: *And provided further*, That if the Commissioner of Indian Affairs becomes satisfied that payments made under the provisions of this act to any parent or guardian of moneys belonging to any minor are being misused or squandered, he may withhold further payments.

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of the lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserves contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all timber on any such lands remaining undisposed of which were classified as "pine lands" under the said act and the amendatory act of June 27, 1902 (Thirty-second Statutes at Large, page 400), including the timber on any and all of said lands and within the limits of any Indian reservation except the Red Lake Reservation that has since January 14, 1889, been included in any forest or other reserve, said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform so far as practicable to the provisions of said act of June 27, 1902: *Provided*, That nothing herein contained shall invalidate or impair any existing valid contract for the cutting or sale of any of said timber: *Provided further*, That where any such contract shall include the timber upon any land allotted under this act the proceeds of the timber cut from any such allotted land after the allotment is made shall be paid to the allottee under the same conditions as other payments are made under this act.

The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889, and not included in any reserve and not disposed of, including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be designated by the General Council of the Chippewa Indians of Minnesota and appointed by the Secretary of the Interior, and upon the completion of the allotments herein authorized all of said land so remaining unallotted and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder, at not less than the appraised value, in tracts not exceeding six hundred and forty acres each, said tracts to conform to legal subdivisions and to be sold upon the following terms and conditions: One-fifth of the purchase price to be paid at the time of sale, and the remainder to be paid in cash within ninety days thereafter, or at the option of the purchaser to be paid in four annual installments, which shall bear interest at the rate of 6 per centum per annum, payable annually. Should any purchaser of such lands be in default in any payment thereon the Secretary of the Interior may, upon a proper showing of good faith on the part of the purchaser, extend the time in which the payment may be made not exceeding one year, and all land so sold in which the purchaser shall be and remain in default in any payment for a period of one year after such payment shall have become due or after one year from the expiration of the extension granted by the Secretary the land shall revert to the United States in trust for said Indians, and any moneys paid thereon shall be forfeited to the Indians.

All lands not sold and disposed of at public auction when offered for sale, and all lands that may revert to the United States in trust by default on the part of the purchaser in the payment of the purchase price as hereinbefore provided, shall remain open to purchase at private sale at the appraised value until the expiration of the time in which all lands sold shall have been fully paid for, and the said Secretary shall then proceed to dispose of all of the remaining lands at public auction to the highest bidder for cash in tracts not exceeding six hundred and forty acres.

The Secretary of the Interior shall issue to any purchaser of said lands, upon full payment being made therefor, a patent as in other conveyances of public lands. All funds derived from the sale of said lands and other property shall be deposited in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund: *And provided further*, That nothing herein contained shall impair or invalidate any valid existing homestead entry.

SEC. 3. That the Secretary of the Interior is hereby authorized to convey to the State of Minnesota, to be used as a part of the public-school system of said State, upon such terms as may be agreed upon, any buildings and any land or part thereof now reserved or used for school purposes for said Indians. So much of the one-fourth of the annual interest accruing on the said principal fund under section 7 of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), may be used by the said Secretary as is necessary to provide proper facilities for any child or children of said Indians whose parent or parents now reside, or any hereafter reside, upon either of their allotments, and where their allotment home is too far from the nearest public school to permit the children to regularly attend the same, or for any orphan minor Chippewa Indian child who is without the proper school facilities: *Provided*, That where any portion of said interest money is expended for the education of children in schools the amount so allotted to any one child shall not exceed \$175

any one year: *Provided further*, That if by reason of the segregation from the principal fund herein authorized the one-fourth of the interest annually accruing thereon shall be insufficient in any one year to defray the school expenses of said children, then the Secretary is authorized to withdraw and use a sufficient amount of said principal fund, which, together with the one-fourth of the annual, interest money, will render available for school purposes in any one year not exceeding the sum of \$75,000: *And provided further*, That the Secretary shall annually, and at the convening of each regular session, transmit to Congress a detailed statement giving the name, age, and location of the residence of the parent or parents or guardian of every child whose school expenses are being paid out of said fund: *And provided further*, That the Secretary may, with the approval of the General Council of the Chippewa Indians of Minnesota, use not to exceed \$75,000 of the trust funds of the Chippewa Indians in aiding the State of Minnesota in establishing and maintaining public schools at places where Chippewa Indian children are now without proper public-school facilities.

Sec. 4. That the Secretary of the Interior be, and he hereby is, authorized in his discretion to establish town sites on the Red Lake and White Earth Reservations in the State of Minnesota and upon any lands ceded under the act of January 14, 1849 (Twenty-fifth Statutes at Large, page 642), which have not been otherwise disposed of, at places where town sites are needed, and to set aside sufficient land, not exceeding three hundred and twenty acres, for each town site so established. That upon the establishment of any such town site the Secretary shall immediately cause the lands embraced therein to be surveyed and platted into suitable lots, streets, and alleys, and to dedicate said streets and alleys and such lots and parcels of land as may be necessary for public uses, and to cause the lots not so dedicated to be appraised at their true value, exclusive of improvements thereon, by a board of three persons, two of whom shall be appointed by the Secretary of the Interior and one of whom shall be appointed by the General Council of the Chippewa Indians, who shall receive compensation, to be fixed by the Secretary of the Interior, at not exceeding \$10 per day and actual expenses for the times they are actually engaged in the work. When said lots are so surveyed, platted, and appraised the President shall issue patents in fee for any such lot upon the final payment of the appraised value, on such terms as may be fixed by the Secretary of the Interior for the payment of all lots or parcels of land disposed of under this act, and the proceeds of such sales shall be placed to the credit of the Chippewa Indians of Minnesota in their permanent fund in the Treasury of the United States.

Those persons owning permanent improvements at the date of the approval of this Act on any of said lots shall have the preference right for six months from the date such lots shall be offered for sale within which to purchase lots upon which their improvements are situated, but no lots shall be sold for less than the appraised valuation. If any person entitled thereto fails to take advantage of this provision, the Secretary shall cause the improvements on the unsold lots to be appraised, and any purchaser, on the payment or tender to the owner of the appraised value of the improvements, shall have the preference right for six months from the date of such payment to purchase such unsold lot or lots at their appraised value. The unimproved lots shall be open to purchase by any person or persons at their appraised value for a period of one year. After the expiration of one year from and after the date of the approval of the plat of any such town site the Secretary shall offer any lots remaining unsold for sale at public auction, and the same shall be disposed of to the highest bidder: *Provided further*, That the patents to be issued shall contain a condition that no malt, spirituous, or vinous liquors shall be kept or disposed of on the premises conveyed, and that any violation of this condition, either by the patentee or any person claiming rights under him, shall render the conveyance void and cause the premises to revert to the Chippewa Indians of Minnesota, to be disposed of as the said Secretary may direct: *And provided further*, That at least four squares of each such town site shall be set aside and reserved for public-school purposes: *And provided further*, That the said Secretary may terminate the said commission whenever in his judgment the work does not justify a continuance thereof, in which event the remaining work shall be done under his direction.

Sec. 5. That it being claimed by the Chippewa Indians of Minnesota that mistakes were made in the surveys of lands ceded by them to the United States under certain treaties and agreements, to their loss and injury, and in order that any such mistakes that may have been made may be corrected, two competent surveyors shall be appointed, one by the Secretary of the Interior and the other by the General Council of the Chippewa Indians of Minnesota, who shall receive such compensation as the Secretary may determine just and proper, to make such resurveys or new and addi-

tional surveys as may be necessary to correctly determine the rights of the United States and the Chippewa Indians of Minnesota in and to any lands which may have been taken or acquired by the United States under any surveys heretofore made fixing the boundaries of any lands ceded under any treaty or agreement with said Indians or any band thereof. Said surveyors shall submit a report, or reports, in writing, to the Secretary of the Interior showing the result of their work, and if any errors are found in the surveys previously made which have resulted in loss to either the Chippewa Indians of Minnesota, or any band thereof, or to the United States, they shall so state in their report, or reports, giving the acreage thereof. The report, or reports, of the surveyors shall be transmitted by the Secretary of the Interior to the Court of Claims for use by said court in determining any of the claims of said Indians against the United States. Said surveyors, with the approval of the Secretary of the Interior, are authorized to employ all necessary help in the proper performance of their duties.

SEC. 6. That exclusive jurisdiction is hereby conferred upon the probate courts of the State of Minnesota over all estates of deceased adult mixed-blood Indians allotted or who may hereafter be allotted on the White Earth Reservation in Minnesota; and over all estates of all members of the Chippewa Tribe of Indians in Minnesota allotted or to be allotted off the White Earth Reservation who were or may be at the time of their death within the unrestricted class.

SEC. 7. That nothing in this Act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation, Minnesota.

SEC. 8. That the Secretary of the Interior be, and he hereby is, authorized to make and issue all necessary regulations in strict conformity with the provisions of this Act to carry the same into effect.

SEC. 9. That all laws and parts of laws in conflict with this Act are hereby repealed, and the Secretary of the Interior is hereby authorized to withdraw and to use the sum of \$50,000, or so much thereof as may be necessary, from the principal fund of the Chippewa Indians of Minnesota, to defray the administrative expenses in carrying out the provisions of this Act.

Mr. MERITT. The essential and basic legislation relating to the Chippewa matters is found in the act of January 14, 1889 (25 Stats. 642). This is the principal legislation relating to the Chippewa affairs, and it is very important in connection with this hearing. I will ask that this bill be included in the record.

Mr. KELLY. You mean this act?

Mr. MERITT. This act; yes, sir.

The CHAIRMAN. If there is no objection, it is so ordered.
(The said act follows:)

CHAPTER 24.—AN ACT FOR THE RELIEF AND CIVILIZATION OF THE CHIPPEWA INDIANS
IN THE STATE OF MINNESOTA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations; and as to the Red Lake Reservation the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota; and provided that all agreements therefor shall be approved by the President of the United States before taking effect: *Provided further,* That in any case where an allotment in sev-

eralty has heretofore been made to any Indian of land upon any of said reservations, he shall not be deprived thereof or disturbed therein except by his own individual consent separately and previously given, in such form and manner as may be prescribed by the Secretary of the Interior. And for the purpose of ascertaining whether the proper number of Indians yield and give their assent as aforesaid, and for the purpose of making the allotments and payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults, and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact numbers of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior and the other with the official head of the band or tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided.

SEC. 2. That the said commissioners shall, before entering upon the discharge of their duties, each give a bond to the United States in the sum of ten thousand dollars, with sufficient sureties, to be approved by the Secretary of the Interior, and conditioned for the faithful discharge of their duties under this act, and they shall also each take an oath to support the Constitution of the United States and to faithfully discharge the duties of their office, which bonds and oaths shall be filed with the Secretary of the Interior. Said commissioners shall be entitled to a compensation of ten dollars per day for each day actually employed in the discharge of their duties, and for their actual traveling expenses and board, not exceeding three dollars per day. Said commissioners shall also be authorized to employ a competent interpreter while engaged in the performance of their duties, at a compensation and allowance to be fixed by them, not in excess of that allowed to each of them under this act.

SEC. 3. That as soon as the census has been taken, and the cession and relinquishment has been obtained, approved, and ratified, as specified in section one of this act, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under the direction of said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereupon there shall, as soon as practicable, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on White Earth Reservation, in conformity with the act of February eighth, eighteen hundred and eighty-seven, entitled "An act for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes"; and all allotments heretofore made to any of said Indians on the White Earth Reservation are hereby ratified and confirmed with the like tenure and condition prescribed for all allotments under this act: *Provided, however,* That the amount heretofore allotted to any Indian on White Earth Reservation shall be deducted from the amount of allotment to which he or she is entitled under this act: *Provided further,* That any of the Indians residing on any of said reservations may, in his discretion, take his allotment in severalty under this act on the reservation where he lives at the time of the removal herein provided for is effected, instead of being removed to and taking such allotment on White Earth Reservation.

SEC. 4. That as soon as the cession and relinquishment of said Indian title has been obtained and approved as aforesaid, it shall be the duty of the Commissioners of the General Land Office to cause the lands so ceded to the United States to be surveyed in the manner provided by law for the survey of public lands, and as soon as practicable after such survey has been made, and the report, field notes, and plats thereof filed in the General Land Office, and duly approved by the Commissioner thereof, the said Secretary of the Interior, upon notice of the completion of such surveys, shall appoint a sufficient number of competent and experienced examiners, in order that the work may be done within a reasonable time, who shall go upon said lands thus surveyed and personally make a careful, complete, and thorough examination of the same by forty-acre lots, for the purpose of ascertaining on which lots or tracts there is standing or growing pine timber, which tracts on which pine timber is standing or growing for the purposes of this act shall be termed "pine lands," the minutes of such examination to be at the time entered in books provided for that purpose, showing with particularity the amount and quality of all pine timber standing or growing on any lot or tract, the amount of such pine timber to be estimated by feet in the manner usual in estimating such timber, which estimates and reports of all such examinations shall be filed with the Commissioner of the General Land Office

as a part of the permanent records thereof, and thereupon that officer shall cause to be made a list of all such pine lands, describing each forty-acre lot or tract thereof separately, and opposite each such description he shall place the actual cash value of the same, according to his best judgment and information, but such valuation shall not be at a rate of less than three dollars per thousand feet, board measure, of the pine timber thereon, and thereupon such lists of lands so appraised shall be transmitted to the Secretary of the Interior for approval, modification, or rejection, as he may deem proper. If the appraisals are rejected as a whole, then the Secretary of the Interior shall substitute a new appraisal and the same or original list as approved or modified shall be filed with the Commissioner of the General Land Office as the appraisal of said lands, and as constituting the minimum price for which said lands may be sold, as hereinafter provided, but in no event shall said pine lands be appraised at a rate of less than three dollars per thousand feet board measure of the pine timber thereon. Duplicate lists of said lands as appraised, together with copies of the field notes, surveys, and minutes of examinations shall be filed and kept in the office of the register of the land office of the district within which said lands may be situated, and copies of said lists with the appraisals shall be furnished to any person desiring the same upon application to the Commissioner of the General Land Office or to the register of said local land office.

The compensation of the examiners so provided for in this section shall be fixed by the Secretary of the Interior, but in no event shall exceed the sum of six dollars per day for each person so employed, including all expenses.

All other lands acquired from the said Indians on said reservations, other than pine lands, are, for the purposes of this act, termed "agricultural lands."

Sec. 5. That after the survey, examination, and appraisals of said pine lands has been fully completed they shall be proclaimed as in market and offered for sale in the following manner: The Commissioner of the General Land Office shall cause notices to be inserted once in each week for four successive weeks in one newspaper of general circulation published in Minneapolis, Saint Paul, Duluth, and Crookston, Minnesota; Chicago, Illinois; Milwaukee, Wisconsin; Detroit, Michigan; Philadelphia and Williamsport, Pennsylvania; and Boston, Massachusetts, of the sale of said lands at public auction to the highest bidder for cash at the local land office of the district within which said lands are located, said notice to state the time and place and terms of such sale. At such sale said lands shall be offered in forty-acre parcels, except in case of fractions containing either more or less than forty acres, which shall be sold entire. In no event shall any parcel be sold for a less sum than its appraised value. The residue of such lands remaining unsold after such public offering shall thereafter be subject to private sale for cash at the appraised value of the same upon application at the local land office.

Sec. 6. That when any of the agricultural lands on said reservation not allotted under this act nor reserved for the future use of said Indians have been surveyed, the Secretary of the Interior shall give thirty days' notice through at least one newspaper published at Saint Paul and Crookston, in the State of Minnesota, and, at the expiration of thirty days, the said agricultural lands so surveyed shall be disposed of by the United States to actual settlers only under the provisions of the homestead law: *Provided*, That each settler under and in accordance with the provisions of said homestead laws shall pay to the United States for the land so taken by him the sum of one dollar and twenty-five cents for each and every acre, in five equal annual payments, and shall be entitled to a patent therefor only at the expiration of five years from the date of entry, according to said homestead laws, and after the full payment of said one dollar and twenty-five cents per acre therefor, and due proof of occupancy for said period of five years; and any conveyance of said lands so taken as a homestead, or any contract touching the same, prior to the date of final entry, shall be null and void: *Provided*, That nothing in this act shall be held to authorize the sale or other disposal under its provision of any tract upon which there is a subsisting, valid, preemption or homestead entry, but any such entry shall be proceeded with under the regulations and decisions in force at the date of its allowance, and if found regular and valid, patents shall issue thereon: *Provided*, That any person who has not heretofore had the benefit of the homestead or preemption law, and who has failed from any cause to perfect the title to a tract of land heretofore entered by him under either of said laws may make a second homestead entry under the provisions of this act.

Sec. 7. That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State

of Minnesota as a permanent fund, which shall draw interest at the rate of five per centum per annum, payable annually for the period of fifty years, after the allotments provided for in this act have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in manner following: One-half of said interest shall, during the said period of fifty years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said fifty years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding five per centum thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of ninety thousand dollars annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of three million dollars, less any actual interest that may in the meantime accrue from accumulations of said permanent fund; the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live-stock, teams, farming implements, and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest, in cash; and whenever said permanent fund shall exceed the sum of three million dollars the United States shall be fully reimbursed out of such excess, for all the advances of interest made as herein contemplated and other expenses hereunder.

SEC. 8. That the sum of one hundred and fifty thousand dollars is hereby appropriated, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, to pay for procuring the cession and relinquishment, making the census, surveys, appraisals, removal and allotments, and the first annual payment of interest herein contemplated and provided for, which money shall be expended under the direction of the Secretary of the Interior in conformity with the provisions of this act. A detailed statement of which expenses, except the interest aforesaid, shall be reported to Congress when the expenditures shall be completed.

Approved, January 14, 1889.

Mr. MERITT. We have also the act of February 20, 1904, relating to the Red Lake Indians. I would like to have this act appear in the record.

The CHAIRMAN. If there is no objection it is so ordered.
(The said act follows:)

CHAP. 161.—AN ACT TO AUTHORIZE THE SALE OF A PART OF WHAT IS KNOWN AS THE RED LAKE INDIAN RESERVATION, IN THE STATE OF MINNESOTA.

Whereas James McLaughlin, United States Indian inspector, did, on the tenth day of March, anno Domini nineteen hundred and two, make and conclude an agreement with the adult male Indians of the Red Lake Reservation, in the State of Minnesota, which said agreement is in words and figures as follows:

"This agreement made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation in the State of Minnesota, witnesseth:

"ARTICLE 1. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title and interest in and to all that part of the Red Lake Indian reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded being more particularly described as embracing all that part of the said Red Lake Reservation lying west of the range line between ranges thirty-eight

(38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars, or so much thereof as may be necessary, to be paid equitably to those thus removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians, shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

"ART. II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay to said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

"ART. III. It is understood that of the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation, within ninety (90) days after the ratification of this agreement, and the remainder of the said sum of one million dollars, viz, seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

"ART. IV. It is further agreed that the said Indians belonging on said Red Lake Indian Reservation, Minnesota, shall possess their diminished Reservation independent of all other bands of the Chippewa tribe of Indians and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different class of land to be apportioned as equitably as possible among the allottees.

"ART. V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties for agreements not inconsistent with the provisions of this agreement.

"ART. VI. This agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

"In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

"JAMES McLAUGHLIN, [SEAL.]

"United States Indian Inspector.

No.	Name		Mark.	Age.	
1	Kah bay no din.....	Chief.....	x	67	(SEAL.)
2	Mays ko ko noy ay.....	do.....	x	70	(SEAL.)
3	Pay she ke shig.....	do.....	x	35	(SEAL.)
4	Nay ay tow up.....	do.....	x	54	(SEAL.)
5	Ak mun e ay ke zhig.....	do.....	x	76	(SEAL.)
6	I con je gwon abe.....	do.....	x	63	(SEAL.)
7	Kay bay gah bow.....	do.....	x	55	(SEAL.)

and 213 other male adult Indians."

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minnesota; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

Jos. C. ROY,
C. W. MORRISON,
PETER GRAVES,
Interpreters.

RED LAKE AGENCY, MINN., March 12, 1902.

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, U. S. Indian Inspector, and the two hundred and twenty (220) Indians of the Red Lake Reservation, Minnesota, to the foregoing agreement.

DANIEL SULLIVAN,
Overseer in Charge of Subagency.
 FRANK H. KRATKA,
Mayor of Thief River Falls, Minn.
 B. L. FAIRBANKS,
White Earth Agency, Minn.

RED LAKE AGENCY, MINN., March 12, 1902.

I hereby certify that the total number of male adult Indians, over eighteen (18) years of age, belonging on the Red Lake Reservation, is three hundred and thirty-four (334), of whom two hundred and twenty (220) have signed the foregoing agreement.

G. L. SCOTT,
Major Tenth Cavalry, Acting Indian Agent.

LEECH LAKE AGENCY, MINN., March 17, 1902.

And
 Whereas it is deemed for the best interests of the said Indians that said agreement be amended and modified as hereafter provided: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That said agreement be, and the same is hereby, modified and amended so as to read as follows:

"ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation lying west of the range line between ranges thirty-eight and thirty-nine, west of the fifth principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding twenty thousand dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said twenty thousand dollars, or so much thereof as may be necessary, to be paid equitably to those removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they now are buried on the tract hereby ceded.

"ART. II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement the United States stipulates and agrees to sell, subject to the homestead laws of the United States, under rules and regulations to be prescribed by the Secretary of the Interior, in tracts not to exceed one hundred and sixty acres to each individual, all of said lands, except lands remaining unsold after five years from the first sale hereunder, which may be sold without reference to the provisions of the homestead law. Said land shall be sold for not less than four dollars per acre, and shall be sold upon the following terms: One-fifth of the purchase price to be paid at the time of sale and the balance of the purchase price of said land to be paid in five equal annual installments due in one, two, three, four, and five years from date of sale, respectively, and to pay over to said Indians all of the proceeds realized from the sale of the said lands as herein provided.

"ART. III. It is understood that of the amount realized from the sale of said lands a sum of not exceeding three hundred thousand dollars shall be paid in cash per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety days after the first sale herein provided for, and the remainder of the proceeds of the sale of said lands shall be paid in cash per capita in fifteen annual installments, the first of which fifteen annual installments is to be paid in the month of October of the year following that in which the payment of the said three hundred thousand dollars is made, as provided in this agreement, and in the month of October of each year thereafter, and all moneys received after the expiration of said fifteen years shall be apportioned in like manner among said Indians and paid to them on the first day of October in each year.

"ART. IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa tribe of Indians and shall be entitled to allotments thereon of one hundred and sixty acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

"ART. V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement. It is the intention of this agreement that the United States shall act as trustee for said Indians to dispose of said land and to expend and pay over the proceeds as received from the sale thereof only as received, as herein provided.

"ART. VI. This agreement shall take effect and be in force when accepted and ratified by the Congress of the United States."

SEC. 2. That said agreement be, and the same is hereby, accepted and ratified as herein amended.

SEC. 3. That the Secretary of the Interior is hereby authorized and directed to sell, subject to the homestead laws of the United States, under such rules and regulations as he may prescribe, in tracts not to exceed one hundred and sixty acres to each individual, all that part of the Red Lake Reservation, in the State of Minnesota, lying westerly of the range line between ranges thirty-eight and thirty-nine west of the fifth principal meridian, approximating two hundred and fifty-six thousand acres. And the said land shall be sold for not less than four dollars per acre, and shall be sold upon the following terms: One-fifth of the price bid therefor to be paid at the time the bid is made, and the balance of the purchase price of said land to be paid in five equal annual installments, due in one, two, three, four, and five years from date of sale, respectively, payment to be made to the receiver of the United States land office for the district in which said land may be situated. And in case any purchaser fails to make such annual payments promptly when due, or within sixty days thereafter, all rights in and to the land covered by his or her purchase shall at once cease, and any payments made shall thereupon be forfeited and the Secretary of the Interior shall thereupon declare such forfeiture by reoffering said land for sale. And no patent shall issue to the purchaser until the purchaser shall have paid the purchase price and in all respects complied with the terms and provisions of the homestead laws of the United States: *Provided*, That such purchaser shall have the right of commutation as provided by section twenty-three hundred and one of the Revised Statutes of the United States, by paying for the land at the price for which it sold, receiving credit for payments previously made: *Provided further*, That such purchaser shall make his final proof conformable to the homestead laws within six years from the date of sale; that aliens who have declared their intention to become citizens of the United States may become purchasers under this act, but before making final proof and acquiring title must take out their full naturalization papers; and that persons who may have heretofore exhausted their rights under the homestead law may become purchasers under this act: *Provided further*, That after the first sale hereunder shall be closed, the lands remaining unsold shall be subject to sale and entry at the price of four dollars per acre by qualified purchasers, subject to the same terms and conditions as herein prescribed as to lands sold at said first sale: *Provided further*, That all lands above described which shall remain unsold at the expiration of five years from the date of the first sale hereunder shall be offered for sale at not less than four dollars per acre (and lands remaining unsold after such sale shall be subject to private entry and sale at said price), without any conditions whatever except the payment of the purchase price: *And provided further*, That wherever the boundary line of said reservation runs diagonally so as to divide any Government subdivision of a section, and the owner of that portion of such subdivision now being outside of the reservation becomes the purchaser of that portion of such subdivision lying within the reservation, residents and improvements upon either portions of such subdivision as provided by the homestead law shall constitute a compliance as to all such Government subdivisions.

Mr. MERITT. There is also an act of April 28, 1904, relating to additional allotments on the White Earth Reservation. This is found in volume 33 of the Statutes at Large, page 539. I should like to have that act appear in the record.

The CHAIRMAN. If there is no objection it is so ordered.

(The said act follows:)

All of the Indians residing upon the tract above described shall remove therefrom to the diminished reservation within six months after the passage of this act; and there is hereby appropriated from the proceeds of said sale the sum of twenty thousand dollars, or so much thereof as may be necessary, to be paid to those thus removing in proportion to their respective improvements, which payment to the said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the expense of removal within the diminished reservation of their dead from where they are now buried on the tract above described, and the expense of making allotments.

The proceeds of said lands as realized from time to time shall be paid into the United States Treasury to the credit of the Indians belonging on said reservation. Of the amount realized from the sale of said lands a sum not exceeding three hundred thousand dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety days after the first sale herein provided for, and the remainder of the proceeds of the sale of said lands shall be paid in cash, per capita, in fifteen annual installments, the first installment to be paid in the month of October of the year following that in which the payment of the three hundred thousand dollars is made; and all moneys received after the expiration of said fifteen years shall be apportioned in like manner among said Indians and paid to them on the first day of October in each year.

The Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary, and with authority to continue making sale of said lands until all of said lands shall have been sold.

In addition to the price to be paid for the land, the entrymen shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre.

SEC. 4. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the said sale thereof only as received as herein provided.

SEC. 5. That this act shall take effect and be in force from and after its passage.

Approved, February 20, 1904.

CHAP. 1736.—AN ACT TO PROVIDE ALLOTMENTS TO INDIANS ON WHITE EARTH RESERVATION IN MINNESOTA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to allot to each Chippewa Indian now legally residing upon the White Earth Reservation, under treaty or laws of the United States, in accordance with the express promise made to them by the commissioners appointed under the act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, and to those Indians who may remove to said reservation who are entitled to take an allotment under article seven of the treaty of April eighteenth, eighteen hundred and sixty-seven, between the United States and the Chippewa Indians of the Mississippi, one hundred and sixty acres of land; and said allotments shall be, and the patents issued therefor, in the manner and having the same effect as provided in the general allotment act, "An act to amend and further extend the benefits of the act approved February eighth, eighteen hundred and eighty-seven, entitled 'An act to provide for the allotment of land in severalty to Indians on the various reservations and extend the protection of the commissioners of the United States over the Indians, and for other purposes,'" approved February twenty-eighth, eighteen hundred and ninety-one; *Provided*, That where any allotment of less than one hundred and sixty acres has heretofore been made, the allottee shall be allowed to take an additional allotment, which, together with the land already allotted, shall not exceed one hundred and sixty acres: *And provided further*, That if there is not sufficient land in said White Earth (diminished) Reservation subject to allotment each Indian entitled to allotments under the provisions of this act shall receive a pro rata allotment.

Approved, April 28, 1904.

Mr. MERITT. There is also an act of May 23, 1908, found in volume 35, page 268, relating to the establishment of a national forest in the Chippewa country. I should be glad to have that act appear in the record.

The CHAIRMAN. If there is no objection it is so ordered.

(The said act follows:)

CHAP. 193.—AN ACT AMENDING THE ACT OF JANUARY FOURTEENTH, EIGHTEEN HUNDRED AND EIGHTY-NINE, AND ACTS AMENDATORY THEREOF, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created in the State of Minnesota a national forest consisting of lands and territory described as follows, to wit:

Beginning at a point where the north line of section thirty-one in township one hundred and forty-eight north, range twenty-eight west, fifth principal meridian, intersects the low water mark of the lake formed by the waters of Third River; thence easterly along the north line of sections thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six in township one hundred and forty-eight north, ranges twenty-eight and twenty-seven west, continuing easterly along the north line of section thirty-one in township one hundred and forty-eight north, range twenty-six west, to a point where said line intersects the low water mark of Bow String Lake on the west shore; thence southerly along the west side of said lake at low water mark to a point where it crosses the section line between sections sixteen and seventeen in township one hundred and forty-seven north, range twenty-six west; thence southerly along the section line on the east side of sections seventeen, twenty, twenty-nine, and thirty-two in township one hundred and forty-seven north, range twenty-six west, and continuing southerly along the east side of sections five, eight, seventeen, twenty, twenty-nine, and thirty-two, township one hundred and forty-six north, range twenty-six west, continuing southerly along the east line of sections five, eight, seventeen, twenty, and twenty-nine, township one hundred and forty-five north, range twenty-six west to a point at the low water mark on the right bank of the Mississippi River on the section line between sections twenty-eight and twenty-nine in said township; thence southeasterly along the right bank of the Mississippi River at low water mark to its confluence with Leech Lake River in section twelve in township one hundred and forty-four north, range twenty-six west; thence southwesterly along the right bank of Leech Lake River along the low water mark to Mud Lake; thence along the line of low water mark of Mud Lake on its northern and western shores to the point where Leech Lake River empties into the same on fractional section thirty-two, township one hundred and forty-four north, range twenty-six west; thence up said river along the low water mark on the right bank thereof to a point in fractional section twenty-nine where the line intersects the low water mark of Leech Lake; thence in a northwesterly and southwesterly direction following the contours of said lake at low water mark to the point at low water mark on the shore of said lake on the northeast boundary of the ceded Leech Lake Indian Reservation on section line between sections five and eight, township one hundred and forty-three north, range twenty-nine west; thence in a southwesterly direction following the contours of said lake at low water mark to the point on said lake at the southwestern extremity of Ottetail Point; thence southwesterly in a direct line to the southern extremity of section twenty-five in township one hundred and forty-three north, range thirty-one west; thence in a westerly direction along the contour of said lake to the southwestern extremity of section twenty-six in said township; thence in a northerly and westerly direction along the contour of said lake at low water mark to a point where the center line through section two, running in a north and south direction in township one hundred and forty-three north, range thirty-one west intersects the low water mark of Leech Lake; thence northerly through the middle of said section two to the shore of a small lake at low water mark; thence along the east shore of said lake at low water line to a point where the section line between sections thirty-five and thirty-six, township one hundred and forty-four north, range thirty-one west, intersects low water mark of said lake on north shore; thence northerly on section line between sections thirty-five, thirty-six, twenty-five, and twenty-six to the low water mark at the shore of a small lake; thence northerly along the east side of said lake to a point where the section line between sections twenty-five and twenty-six intersects the low water mark of said lake in said township; thence northerly along the east line of sections twenty-six, twenty-three, and fourteen to a point on the

east line of section fourteen, twenty chains north of the southeast corner of section fourteen; thence west twenty chains; thence north twenty chains; thence west twenty chains; thence northerly along the east side of a small lake to a point where the center line running in a north and south direction through section fourteen intersects the north side of said lake at low water mark; thence northerly along the center line of said section through section eleven to the quarter corner between sections two and eleven of said township; thence westerly to a point twenty chains west of the northwest corner of section eleven; thence north forty chains; thence west twenty chains; thence north to a point where the center line running in a north and south direction in section three intersects the township line between townships one-hundred and forty-four and one hundred and forty-five north, range thirty-one west; thence westerly to the quarter quarter corner on the township line in the southeast quarter of section thirty-four in township one hundred and forty-five north, range thirty-one west; thence north twenty chains; thence west forty chains; thence north twenty chains; thence west twenty chains to the quarter corner between sections thirty-three and thirty-four in said township and range; thence northerly along the east line of sections thirty-three, twenty-eight, twenty-one and sixteen in said township to a point where it intersects the right-of-way of the Great Northern Railway as at present located; thence easterly along said right-of-way to a point where it intersects the shore of Cass Lake at low water mark in section fifteen, township one hundred and forty-five north, range thirty-one west; thence northerly along the west shore of Cass Lake and the south, west, and north shore of Allen's Bay and the northwest shore of Cass Lake to a point along the contour of said lake at low water mark at the head of the Mississippi River, approximately in section twenty-one, township one hundred and forty-six north, range thirty west; thence easterly along the right bank of said river to a point where the range line between ranges twenty-nine and thirty west intersects said river; thence northerly along the range line to the northwest corner of section nineteen in township one hundred and forty-seven north, range twenty-nine west; thence easterly along the north line of sections nineteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four in said township and along the north side of sections nineteen and twenty in township one hundred and forty-seven north, range twenty-eight west to a point where said line intersects the left bank of Third River at low water mark; thence northerly along the right bank of Third River to the contour line at low water mark of the lake formed by the waters of Third River; thence south-easterly and northerly along the contour line of said lake to the point of beginning; and it is the intent of this act to include in said national forest and make a part thereof all that certain territory and land which has heretofore been selected by the Forester of the Department of Agriculture as the ten sections situated in townships one hundred and forty-four, one hundred and forty-five, and one hundred and forty-six north, ranges thirty and thirty-one west of the fifth principal meridian in Minnesota and designated as being the ten sections referred to and authorized to be selected by section two of the act approved June twenty-seventh, nineteen hundred and two, being chapter eleven hundred and fifty-seven, United States Statutes at Large, volume thirty-two, entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine; and also all the islands in Cass Lake in the State of Minnesota.

And in addition to the lands and territory above described, the lands described by section two of said act of June twenty-seventh, nineteen hundred and two, as follows: "One hundred and sixty acres at the extremity of Sugar Point, on Leach Lake, and the peninsula known as Pine Point, on which the new Leech Lake Agency is now located" shall be included in and are hereby made a part of said national forest: *Provided*, That this act shall not in any manner abridge the right of citizens to the use of the west and northwesterly shores of Cass Lake.

SEC. 2. The Secretary of the Interior is hereby authorized to proceed with the sale of the merchantable pine timber upon the above described land outside of said ten sections and said islands and points, in conformity with the provisions of said Act above entitled, and reserving ten per centum of such timber from sale, said ten per centum to be designated by the Forester of the United States Department of Agriculture; and as to the timber upon said ten sections and said islands and points, the said Forester is authorized, under such rules and regulations as he may prescribe from time to time to sell and dispose of so much of the standing timber thereon as he may deem wise and advisable in the conduct of a national forest: *Provided*, That a commission of three persons shall at once be appointed, consisting of one person to be designated by the President, one by the Secretary of the Interior, and one by a general council of the Indians of the Winnibigoshish, Cass Lake, Chippewas of the Mississippi Reservation, and Leech Lake Reservation to be held under the direction of the agent at

Leech Lake Indian Agency; and said commissioners shall proceed forthwith to appraise the value of the five per centum of timber heretofore reserved from sale by the provisions of said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum hereafter reserved under the provisions of this act, and the timber upon said ten sections and upon the unappropriated lands on said islands and points, and shall ascertain the acreage of actual land included under the provisions of this act and to the estimated value of said five per centum of timber reserved under the said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum reserved under this act and the estimated value of timber upon said ten sections and upon the unappropriated lands on said islands and points, to the sum of the values of the timber so estimated shall add an amount equal to one dollar and twenty-five cents for each and every acre of land not otherwise appropriated which they find covered by the provisions of this act, and shall certify the same to the Secretary of the Interior. The Indians designated in this section, acting through a representative who shall serve without compensation, to be named by them at the time of their appointment of the commissioner herein, shall have sixty days in which to appeal to the President of the United States from the findings of said commissioners, as certified to the Secretary of the Interior. At the end of said sixty days, if no appeal has been taken or if an appeal has been taken, then, upon the determination thereof by the President, the Secretary of the Interior shall certify the amount found by said commissioners, or if modified by the President the amount determined by him, to the Secretary of the Treasury, who shall thereupon place such amount to the credit of all the Chippewa Indians in the State of Minnesota as a part of the permanent fund of said "All of the Chippewa Indians in the State of Minnesota" provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" approved January fourteenth, eighteen hundred and eighty-nine, and the acts supplementary thereto, and the amounts so certified to the Secretary of the Treasury shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts.

SEC. 3. That any Indian having an allotment within the limits of the national forest created by this act is hereby authorized to relinquish such allotment and permitted to take another allotment in lieu thereof outside such national forest, under the direction of the Secretary of the Interior; and the allotments of any deceased Indians located within the boundaries of said national forest shall not hereafter be disposed of under section seven of the act of June twenty-seventh, nineteen hundred and two (volume thirty-second Statutes at Large, page two hundred and forty-five); but the heirs of said deceased Indians shall have the right, with the consent of the Secretary of the Interior and under such rules as he may prescribe, to relinquish to the United States the lands covered by such allotments and to select surveyed, unappropriated, unreserved land within the limits of any of the ceded Indian lands in the State of Minnesota and outside of the national forest hereby created in lieu of the land covered by such allotments; and the lands so relinquished by the Indians or their heirs shall thereupon become part of the said national forest. And the Secretary of the Interior is hereby authorized on request of the forester of the Department of Agriculture to purchase such relinquishments from said Indians or their heirs and to pay for the same from any moneys received, after the appraisal of timber herein provided for, on account of the sale of timber from the national forest hereby created, or from the sale of any other products or the use of any lands or resources thereof.

SEC. 4. That all land in any of said reservations, the Winnibigoshish Indian Reservation, Cass Lake Indian Reservation, Chippewas of the Mississippi Reservation, or Leech Lake Indian Reservation not included in the national forest hereby created as above described, heretofore classified or designated as agricultural lands, is hereby declared to be open to homestead settlement; and any of said land which has been classified as timber land shall be open to homestead settlement as soon and as fast as the timber is removed therefrom, in conformity with the homestead law, except that none of said lands shall be disposed of except on payment of one dollar and twenty-five cents per acre.

SEC. 5. That all moneys received from the sale of timber from any of the lands set aside by this act for a national forest, prior to the appraisal herein provided for, including all moneys received for timber under sales made by the Secretary of the Interior as authorized by existing laws and section two of this act, shall be placed to the credit of the Chippewa Indians in the State of Minnesota, as provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-

nine, and the acts supplementary thereto, and shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts; and after said appraisal the national forest hereby created, as above described, shall be subject to all general laws and regulations from time to time governing national forests, so far as said laws and regulations may be applicable thereto.

SEC. 6. That the commissioners provided for herein shall receive a compensation of ten dollars per day each for each and every day actually spent upon the work herein provided for, which shall be paid out of any money in the Treasury of the United States not otherwise appropriated, and no commissioner shall be paid for more than ten days' service.

SEC. 7. None of the Indian graves now upon any of the islands or points referred to in this act shall be disturbed and the Indians shall continue to have the right to bury their dead at such places as they have heretofore used for that purpose, under the rules and regulations to be prescribed by the Forest Service.

SEC. 8. That nothing in this act contained shall in any manner bind the United States to purchase any of the land in said reservations excluded from the reserve created by this act, or to dispose of said land, except as provided by the act of January fourteenth, eighteen hundred and eighty-nine, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and an act of June twenty-seventh, nineteen hundred and two, entitled "An act to amend an act for the relief and civilization of the Chippewa Indians in the State of Minnesota," or the provisions of this act; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and the timber thereon, and to dispose of the proceeds thereof, as provided in said acts, only when received from the sale of the timber and the lands, as therein provided.

Approved, May 23, 1908.

Mr. MERITT. I also offer for the record the act creating the forest reserve on the Red Lake Reservation—act of May 18, 1916 (123-137):

To carry into effect the act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January 14, 1889, to provide for the establishment and administration of a forest reserve and for the sale of timber within the Red Lake Indian Reservation, Minnesota," that the following-described lands within the Red Lake Indian Reservation, Minnesota, be, and the same hereby are, created into a forest reserve, to be known as the Red Lake Indian Forest: Townships one hundred and fifty and one hundred and fifty-one north, ranges thirty-two thirty-three, thirty-four, thirty-five, and thirty-six west, and townships one hundred and fifty-two and one hundred and fifty-three north, ranges thirty-two, thirty-three, and thirty-four west of the fifth principal meridian, except the lands in townships one hundred and fifty-one north, range thirty-six west, which lie north of the north line of sections twenty-six to thirty, inclusive, and except all lands within sections four, five, six, seven, eight, nine, and eighteen, in township one hundred and fifty-three north, range thirty-four west. The provisions of this paragraph shall not apply to any lands which have heretofore been reserved for school, agency, church, or town-site purposes or granted to private parties or corporations within the area described, nor to the town site of Red Lake, for the creation of which provision is made herein: *Provided*, That when any of said lands are no longer needed for the purpose for which they are reserved, the Secretary of the Interior may declare such lands to be a part of the Red Lake Indian Forest.

That lands within said Red Lake Indian Forest, which are not covered with standing and growing merchantable pine timber and which are suited for the production of agricultural crops and which are fronting upon a lake shore, may be allotted to individual Red Lake Indians: *Provided*, That no such allotment shall exceed eighty acres nor have more than eighty rods fronting upon a lake shore: *Provided further*, That in case an Indian has improved and cultivated more than eighty acres, his allotment may embrace his improvements to the extent of one hundred and sixty acres.

That said forest shall be administered by the Secretary of the Interior in accordance with the principles of scientific forestry, with a view to the production of successive timber crops thereon, and he is hereby authorized to sell and manufacture only such standing and growing pine and oak timber as is mature and has ceased to grow, and he is also authorized to sell and manufacture from time to time such other mature and marketable timber as he may deem advisable, and he is further authorized to construct and operate sawmills for the manufacture of the timber into merchantable products and to employ such persons as he shall find necessary to carry out the purposes of the foregoing provisions, including the establishment of nurseries and the purchase of

seeds, seedlings, and transplants when needed for reforestation purposes: *Provided*, That all timber sold under the provisions herein shall be sold on what is known as the bank scale: *Provided further*, That no contract shall be made for the establishment of any mill, or to carry on any logging or lumbering operations which shall constitute a charge upon the proceeds of the timber, until an estimate of the cost thereof shall have first been submitted to and approved by Congress.

That the Secretary of the Interior may issue permits or grant leases on such lands for camping or farming. No permit shall be issued for a longer term than one year and no lease shall be executed for a longer term than five years. Every permit or lease issued under authority of this act to Indians, or to other persons or corporations, and every patent for an allotment within the limits of the forest created by section one, shall reserve to the United States the right to cross the land covered thereby with logging roads or railroads, to use the shore line, or to erect thereon and use such structures as shall be necessary to the proper and economical management of the Indian forest created by this act; and the Secretary of the Interior may reserve from allotment tracts considered necessary for such administration.

After the payment of all expenses connected with the administration of these lands as herein provided, the net proceeds therefrom shall be covered into the Treasury of the United States to the credit of the Red Lake Indians and draw interest at the rate of 4 per centum per annum. The interest on this fund may be used by the Secretary of the Interior in such manner as he shall consider most advantageous and beneficial to the Red Lake Indians. Expenditure from the principal shall be made only after the approval by Congress of estimates submitted by the said Secretary.

That the Secretary of the Interior shall select and set apart an area not exceeding two hundred acres, in sections twenty, twenty-one, twenty-eight, and twenty-nine, township one hundred and fifty-one north, range thirty-four west, cause the lands thus selected to be surveyed and platted into suitable lots, streets, and alleys, and dedicate said streets and alleys and such lots and parcels as he may consider necessary to public uses. The lands thus selected shall not be allotted, but held as an Indian town site subject to further legislation by Congress.

That the timber on lands of the Red Lake Indian Reservation outside the boundaries of the forest created by this act may be sold under regulations prescribed by the Secretary of the Interior, and the proceeds administered under the provisions of the general deficiency act of March 3, 1883 (Twenty-second Statutes at Large, page 590) and the Indian appropriation act of March 2, 1887 (Twenty-fourth Statutes at Large, page 463).

Mr. MERITT. It should be made quite plain to the committee that Mr. Ballinger does not represent all of the Chippewa Indians. He is here as attorney for the Chippewa council.

The CHAIRMAN. May I ask if that is the council the bureau now recognizes?

Mr. MERITT. Yes, sir; we have recognized the Chippewa council.

The CHAIRMAN. Then, you are dealing with Mr. Ballinger as attorney for the Chippewa council?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And that is supposed to include all of the people, isn't it?

Mr. MERITT. No, sir.

The CHAIRMAN. Well, from a legal standpoint?

Mr. MERITT. Not from a legal standpoint; no, sir.

The CHAIRMAN. Well, from a political standpoint?

Mr. MERITT. From a political standpoint the Chippewa council represents the Chippewa Indians at this time.

The CHAIRMAN. It represents the majority of the Chippewa Indians as represented by the vote that elected the council?

Mr. MERITT. Yes, sir; but there are a great many Chippewa Indians who repudiate the council and they do not agree with the recommendations made by this council. Mr. Henderson is here to represent the Red Lake Indians.

Mr. HASTINGS. The Red Lake Indians represented by this council, they also have selected a council?

Mr. MERITT. I believe the Red Lake Indians refused to have anything to do with the election of this council.

Mr. RHODES. The department represents the Indians through the council, or do you recognize a sort of dual make-up of the Indians of that tribe?

Mr. MERITT. We recognize the council as a council, but we do not permit the council to dominate the administrative or legislative affairs in the Chippewa country, so far as we can control the situation. We think that the Indians on the various reservations have a right to submit their views to the Indian Office, and in taking administrative action on their affairs we believe that we should consider the wishes of all the Indians rather than the wishes of the members of the Chippewa council.

Mr. RHODES. Now, does that mean that you recognize that there is merit in the contention of those who refuse to be bound by the council?

Mr. MERITT. Yes, sir.

Mr. MCKINIRY. I would like to have it appear in the record how many reservations there are for the Chippewas.

Mr. MERITT. We have the White Earth Reservation, Red Lake Reservation, Leech Lake Reservation, Cass Lake Reservation, Fond du Lac Reservation, Vermillion Lake Reservation, Grand Portage Reservation, and the Nett Lake Reservation.

Mr. KELLY. Are those all in Minnesota?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Now, gentlemen, we started out with Mr. Ballinger and we have determined upon the time he is to have, and I think we ought not use up so much of that time in interrogating some other witness.

Mr. ELSTON. Mr. Meritt has not answered the question Mr. Ballinger asked him—whether they could start with the act of 1854—

The CHAIRMAN. Mr. Meritt refused to be bound or to commit himself in any way at this time. He answered the question in that way.

Mr. ELSTON. Then Mr. Ballinger has got to go away back. I understood the whole object of this was to save time.

The CHAIRMAN. He has to go back and clear up that point.

Mr. BALLINGER. Mr. Chairman, in view of the statement made by Mr. Meritt right at this point I want to make a few observations. There are some discordant elements among the Chippewas, but these discordant elements are largely the direct result of a back-fire on the part of the Indian Office against the members of the Chippewa general council. The general council has been endeavoring for years to stop the enormous appropriations that were being made out of their trust funds and the money uselessly expended largely in salaries of Indian Office employees in Minnesota and a limited amount for rations. There are a number of Indians out there who have been the beneficiaries of these pork-house institutions. I do not charge the Indian Bureau here directly with that, but I do charge that its agents in Minnesota are directly responsible for this back-fire and attempt to discredit the general council. These Indian Bureau employees in Minnesota desire to perpetuate their jobs, and they are the men who stir up the ignorant element to oppose the objects and aims of the general council.

Now, Mr. Chairman, I shall start with the treaty of 1854, and Mr. Meritt's refusal to accept that treaty as the basis of title will necessitate a reference to that treaty and to all subsequent treaties, agreements, and laws of Congress bearing upon the question of title. With the permission of the committee I shall state the substance of each treaty agreement and law of Congress and insert in my remarks the exact provisions, but if anybody in this room, with the permission of the committee, questions any statement that I make with reference to any treaty, agreement, or law of Congress, if he will rise and make known his exception I will read the text from the book. In that way I may be able to shorten the time, and I will take it that if there is silence they then assent.

The CHAIRMAN. That sounds like a challenge.

Mr. KELLY. That is assuming that they know accurately in their minds the substance of the treaties without reference to a book. I do not think you ought to make a statement of that kind. They may remain silent simply because they have no contrary notion in their minds.

Mr. MERITT. I want it understood that by silence we do not admit anything.

The CHAIRMAN. I think we ought to go along in an orderly way, and let Mr. Ballinger go ahead with his remarks. When the time comes for these statements we will take it up then.

Mr. BALLINGER. Prior to September 30, 1854, the then Chippewa Nation of Indians occupied a large tract of land situated in the then State of Wisconsin and the then Territory of Minnesota. By the treaty of September 30, 1854 (11 Stat., 599), the Chippewa Nation divided, a part remaining in Wisconsin and a part removing to Minnesota. Those remaining in Wisconsin were thereafter known as the Chippewa Indians of Lake Superior, and those who removed to Minnesota were thereafter known as the Chippewa Indians of the Mississippi. The Chippewa Indians of the Mississippi thereafter became commonly known as the Chippewa Indians of Minnesota. By that treaty the Chippewa Indians of Lake Superior ceded and relinquished to the Chippewa Indians of the Mississippi all their right, title, and interest in and to the lands in Minnesota (Sec. sec. 1), which was thereafter held in common by the Chippewas of the Mississippi. This is found in article 1, paragraph 2, in these words:

The Chippewas of the Mississippi hereby assent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claim to the lands heretofore owned by them in common, lying west of the above boundary line.

By the above provision of the treaty of 1854 the possessory right to all the lands in the Territory of Minnesota was conveyed to the "Chippewas of the Mississippi." Within the limits of this cession of the Chippewas of the Mississippi were the lands now embraced within the diminished Red Lake Reservation in Minnesota, and the Chippewas of the Mississippi have never surrendered their title to the Red Lake Reservation except by the agreements of 1889, entered into pursuant to the act of January 14, 1889 (25 Stats., 642), and then only upon the terms and conditions stated in said agreements.

By the treaty of February 22, 1855 (10 Stats., 1165), the Chippewa Indians of the Mississippi ceded to the United States a large tract of

their country, but this cession did not include the present diminished Red Lake Reservation, nor any of the lands that were embraced within the Red Lake Reservation in 1889, the land ceded being specifically described in article 1 of this treaty.

Now, gentlemen of the committee, let me make plain that after the treaty of 1854 and after the Mississippi Chippewas removed to the Territory of Minnesota—some of them having lived in the Territory for 50 years prior to the treaty of 1854, and others joining them after the treaty of 1854—settlements were made in different localities. The Indians who settled around Red Lake, for instance, became known as the Red Lake Band. Red Lakes derived their name from the color of their water. The same was true of the Leech Lake Indians, of the White Earth Band, and of all the 13 bands that constituted the Chippewas of the Mississippi. These separate bands constituted the Chippewas of the Mississippi Tribe, and the lands were the common property of all the Indians.

The act of May 15, 1886 (24 Stats., 44), authorized the Secretary of the Interior to negotiate with the several tribes and bands of Chippewa Indians in Minnesota for modifications of existing treaties. In the early eighties the necessity for additional land for white settlers in Minnesota became acute. The Chippewa Indians, numbering about 7,000, were then holding about 6,000,000 acres of land. The demands of the white population for the Indian lands were finally crystallized in a provision inserted in the Indian appropriation act of May 15, 1886 (24 Stats., 44), referred to at some length in Executive Document No. 110, first session, Fiftieth Congress, under which the Secretary of the Interior was authorized to negotiate with the several bands of Chippewa Indians in the State of Minnesota for modifications of the then existing treaties. Under this authority two agreements were negotiated, one with the Chippewas of the White Earth, Leech Lake, Cass Lake, Lake Winnebagoishish, and White Oak Point Reservations, and the Gull Lake and the Gull River Bands, and the second with the Indians residing on the Red Lake Reservation. After consideration of these agreements by the Indian Committees of Congress, many objectionable features were found, and in lieu thereof a bill was introduced in the House by the then Congressman Nelson, now the distinguished Senator from Minnesota. The bill was H. R. 7935, and this bill with slight modifications became the act of January 14, 1889.

In the report on this bill, submitted by the then Congressman Nelson, House Report No. 789, Fiftieth Congress, first session, the reasons for the rejection of the two agreements are set out at length in the report, and the objects and purposes of the bill (H. R. 7935) are fully explained. The principal objections to the agreements run to the conferring of absolute ownership on the 1,103 Indians residing on the Red Lake Reservation to about 4,000,000 acres of land, to the exclusion of all the other Chippewas, and the retention of about 1,000,000 acres of said land, out of which were to be made allotments to the Indians on the Red Lake Reservation, the residue to be held as communal property in perpetuity, and the preservation and continuation of tribal relations.

I am stating this to show what was in the mind of Congress when it passed the act of January 14, 1889, and the legislation carries out

in as clear form as it is possible for human language to carry into effect the intent of Congress as expressed in its committee reports.

I read now from the Report No. 789, Fiftieth Congress, first session, page 2, which was the report on the bill that became the act of January 14, 1889:

To understand the subject matter of said bill and agreements fully, it is necessary to describe in detail the several reservations and Indian lands affected by these measures.

All the Indians in Minnesota are members of the great Chippewa family, which has for generations occupied the northern and northeastern half of the State. There are now in all about 7,500 of these Indians, who occupy reservations and unceded lands amounting in the aggregate to about 4,700,000 acres of land.

The following table shows in detail the name of each Indian reservation, the acreage thereof, and the number of Indians occupying the same, viz:

Red Lake, acreage 3,200,000, population 1,103.

White Earth, acreage 796,672, population 1,845.

White Oak Point, Cass Lake, and Winibigoshish, acreage 320,000, population 974.

Leech Lake, acreage 94,000, population 1,174.

Mille Lac, acreage 61,014, population 942.

Fond du Lac, acreage 100,121, population 455.

Boise Fort, acreage 107,509, population 702.

Grand Portage, acreage 51,840, population 301.

Totals, acreage 4,731,596, population 7,496.

The so-called Red Lake Reservation is simply a remnant of unceded Indian Territory occupied at present by the Red Lake Band, but really the common property, so far as the Indian title is concerned, of all the Chippewa Indians in Minnesota.

Then, after considering this agreement the Committee says:

The Red Lake agreement is also open to serious objection in perpetuating forever the tribal evolution of those 1,100 Red Lake Indians, by giving them in perpetuity a tribal fee title to a cool million acres of agricultural lands, less the individual allotments, which could not well exceed 160,000 acres of land.

I may pause and say that this is precisely the position of the department to-day, to keep them in that condition. They are unwilling to make allotments to them. The report continues:

This seems the height of prodigality, to first give each of these Indians a farm and then give the whole band, only 1,100 of them, over 800,000 acres in common in fee forever.

It is now conceded on all hands that the only safe and practical way to civilize the Indians is by allotting lands in severalty to them—breaking up their tribal relations and ownership in common, and putting them to work as individuals on their several allotments. Not only does the Red Lake agreement do violence to these views, but it seems particularly calculated to build up an Indian land monopoly and obligarchy, more than that which now exists among some of the so-called civilized tribes in Indian Territory.

The same objection——

The CHAIRMAN. In your judgment what could have been the reason for this large amount of land being handed to that band of the tribe at that time? There must have been a reason for that. They must have had some justification for it.

Mr. BALLINGER. Mr. Chairman, the Red Lake Indians were the only Indians occupying that section and they set up a claim to what they term the possessory rights of Indians, and, in addition to that, as I stated before, Congress in 1864 and 1865 had, in fact, dealt with them by treaty; but this question becomes immaterial in view of their subsequent agreement under which they relinquished that title.

The CHAIRMAN. All right; go ahead.

Mr. BALLINGER (continuing reading from the report):

The same objection exists as to the White Earth agreement; but as the overplus of land after filling allotments is not apt to be much over 200,000 acres of land, the objection is not so serious and far-reaching in its consequences.

Your committee are also opposed to the Red Lake bill above mentioned, for the reasons—

(1) That it is only a partial dealing with the Indian problem in Minnesota. It makes provision for only 1,100 Indians, while the residue, over 6,000 in all, are unprovided for.

(2) While all the Chippewas in Minnesota really belong to one family, and this Red Lake Reservation is really a remnant of all that country once occupied by them in common, and thus a sort of common property, yet the bill proposes to give the 1,100 Red Lake Indians the entire proceeds of the 3,200,000 acres reservation, less what may be required to fill allotments, while the other 6,000 Indians are to be limited to about 1,500,000 acres, less allotments; or, to put it more concisely, 1,100 Indians are to receive the exclusive benefit of 3,200,000 acres, while 6,000 Indians receive the benefit of only 1,500,000 acres. Your committee think this method of apportionment is unfair and unwise in every view.

All the Indians on the small outlying and scattered reservations should be removed to and colonized upon the White Earth Reservation, where allotments should be made to all of them, except the Red Lake Band, and the Red Lake Band should have their allotments on the Red Lake Reservation; and after ample allotments have been made to all the Indians as aforesaid the rest of the lands should be surveyed and classified into pine and agricultural lands. The pine lands, after being properly appraised, should be sold at public sale to the highest bidder, but at not less than the appraised price. The agricultural lands should be given at \$1 per acre to actual settlers only, under the homestead laws.

The proceeds of the lands thus disposed of should form a permanent interest-bearing fund for all the Chippewa Indians in common, the income and principal of which should inure to all the Chippewa Indians in Minnesota in common.

To carry out these general views your committee have prepared and introduced the accompanying bill (H. R. 7935), entitled "A bill for the relief and civilization of the Chippewa Indians in Minnesota," and recommend the passage of the same.

Mr. KELLY. You say that bill afterwards became the law and is the law?

Mr. BALLINGER. Yes, sir. Now, I want to consider the text of that law and see whether or not the law as enacted was not equally explicit.

Mr. HASTINGS. I did not hear all your argument. Was that act ratified by these various tribes or bands?

Mr. BALLINGER. Yes, sir; and it was practically unanimously assented to by the Red Lake Band.

Mr. HASTINGS. There is no question about that?

Mr. BALLINGER. None whatever.

The CHAIRMAN. Except that Mr. Meritt would not admit it.

Mr. BALLINGER. Now, gentlemen, I will read section 1 of the act of January 14, 1889, and I will ask you gentlemen to follow me closely to see whether or not this act did not provide for allotments to all of the Indians and the sale and disposition of all residue land and the deposit of the funds in the Treasury of the United States to the credit of all the Indians:

That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations, and as to the Red Lake Reservation

the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota; and provided that all agreements therefor shall be approved by the President of the United States before taking effect.

Gentlemen, that language is as clear and unambiguous as it is possible to have the human hand pen it.

Mr. KELLY. Has that law been complied with?

Mr. BALLINGER. Only in part. The act did not become effective until ratified by the Indians. It then became an agreement binding alike upon the United States and the Indians. It is the violation of this agreement that the Indians are complaining of to-day. That law provided that except as to the Red Lakes each of the other bands must by two-thirds of their male members give their assent to the law and the cessions, but as to the Red Lake Reservation two-thirds of all the Indians was sufficient.

Mr. JOHNSON. I thought that was the alternative, that the Red Lakes might not have to vote two-thirds in favor of it, but if two-thirds of all the Red Lakes in Minnesota voted, then the Red Lakes would be bound; is that true?

Mr. BALLINGER. Upon the original construction I would say that you are absolutely correct, but that was not the policy which was followed. It was submitted to the Red Lakes, who assented by practically a unanimous vote.

The CHAIRMAN. Now, I maintain that Mr. Ballinger should go on. Everybody will be given time to make their objections after he makes his statement. I think the committee wants to hear him through.

Mr. BALLINGER. Now, gentlemen, I have the Executive document containing the record of the ratification of that agreement. That law was accepted by the Red Lakes. The acceptance was practically unanimous. Out of 386 male Red Lake adults 325 gave their assent. This appears on page 10 of Executive Document No. 247, Fifty-first Congress, first session, transmitted by President Harrison to Congress with his approval of the agreements. The first place the commission went was to the Red Lake Reservation to negotiate an agreement with the Red Lake Indians, and in the very first column appears the number of male adults and the number giving their assent, as stated by me. Maybe some of you gentlemen would like to examine the original document. Here it is. Now, all the other bands assented to the act of 1889 upon the distinct understanding that out of the lands reserved on the Red Lake Reservation the Indians residing thereon would take their allotments and the remaining land was to be disposed of as the law provided for their common benefit. I will not read the text of the cessions, as the agreements are all set out. I call your attention to the signature rolls, Mississippi Chippewa Indians, White Earth Reservation, Minn., page 35 of the same document. First appears the law in its entirety; then this follows:

And after such explanation and understanding have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of said White Earth Reservation as is not embraced in the following-described boundaries.

Now, that was the reservation held for allotment purposes.

And we do also hereby grant, cede, and relinquish to the United States, for the purposes and upon the terms stated in said act, all our right, title, and interest in and

to the lands reserved by us and described in the first article (ending with the words "to the place of beginning") of the treaty with the Chippewas of the Mississippi, proclaimed April 18, 1867 (16 Stat., 719), and also to the Executive addition thereto made and described in an Executive order dated October 29, 1873; and we do also hereby cede and relinquish to the United States all our right, title, and interest in and to all and so much of the Red Lake Reservation as is not required and reserved under the provisions of said act, to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Those were the terms and conditions upon which the other Indians made their cessions, so that the Red Lake Reservation was to be sold and disposed of after allotments had been made to the Indians then living upon it. Now, let us turn to the Red Lake agreement and see what the Red Lakes agreed to. I will read now from pages 28 and 29 of the same document:

We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake Reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding, the act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" (Public No. 13), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States, all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following-described boundaries, to wit:

Then the description of the lands reserved for allotments follows, and then follows this:

For the purposes and upon the terms stated in said act, which said lands embraced within the foregoing boundaries have been reserved by the commissioners appointed under said act and as therein authorized for the purpose of making and filling the allotments therein provided for.

Now, can anything be plainer than that all of the Indians when they signed this agreement and ratified the act of 1889 understood that all of their lands except sufficient to make and fill allotments were ceded to the United States in trust? Section 7 of the law provides for the manner in which the property shall be disposed of. Now, I shall not take up the time of the committee to read from decisions of the courts construing that agreement; but in the case of the United States v. Mille Lac Band (229 U. S., 509; 57 L. Ed., 1306), the court held in that the Mille Lac Band had assented to that agreement upon the distinct understanding that they were to share in the funds derived from the sale of property on the other reservation, and that that became binding upon the Government as well as upon the Indians. Gentlemen, this is the crux of this whole controversy to-day: the Chippewa Indians, through their general council, ask the Government of the United States to deal honestly and fairly with them under the plain terms of the agreements they entered into 31 years ago. Can they ask less? Should they be expected to take less? The commission, under the act of 1889, was authorized to make reservations for allotment purposes. On the Red Lake Reservation it reserved about 700,000 acres of land, although there were but 1,103 Indians residing thereon, and the commission, in its report at page 15, states the reason for the reservation of this excess land in these words:

The Red Lake Reservation, which they cede to the United States, contains 3,260,000 acres. The number of Indians occupying the same is 1,168. The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are as follows:

And then follows a description of the boundaries.

This is larger than they will eventually require, but as there are swamps and other unutilized lands therein, it can not be reduced until after survey and allotment shall be made.

That is the reason the commission reserved lands in excess of the amount necessary to make allotments.

Mr. RHODES. Did they not have the right to do that in the light of the law that you just read?

Mr. BALLINGER. I think they did. I think the commission, in the exercise of that discretion, acted wisely, and it certainly acted in the interest of the Indians. Now, Mr. Chairman, the question of the ownership of that Red Lake Reservation has been a mooted question for some time. The general council does not think there is a shadow of doubt about the ownership, but they have endeavored to induce the department to refer that question to its own law officers for an opinion, and that department has refused to—

Mr. KELLY. When you say "they," you mean the general council, do you?

Mr. BALLINGER. Yes; the general council has asked through me to have that question referred, and I now desire to put in the record at this point a letter in which three or four questions were asked by the general council to be referred by the department to the law officers of the Government for a legal opinion that might be used at least in an advisory capacity. One of the questions they asked to have referred was this:

Under the act of January 14, 1889 (25 Stat., 642), and the agreements entered into and cessions made thereunder, were all the lands on the Red Lake Reservation, not needed to make and fill the allotments to the members of the Red Lake Band provided for in that and existing acts, ceded to the United States in trust to be disposed of by the United States as the act of January 14, 1889, directed, for the benefit of all the Chippewas of Minnesota, or were all of the said lands reserved for the exclusive use and benefit of the members of the Red Lake Band which was only one of 14 bands comprising the Chippewas of Minnesota?

Then as a foot note to that this appears:

This matter is reviewed at length in paragraphs 2, 3, 4, 5, and subparagraphs "d" and "e" of paragraph 6 of the petition filed April 5, 1919, said paragraphs being marked on the inclosed copy with an "x" in red pencil at the commencement of each paragraph.

I desire to read now the answer of the Acting Secretary. This is dated May 22, 1919:

I have considered your letter of the 3rd instant, in which you request that certain questions relating to the affairs of the Chippewa Indians of Minnesota be referred to the solicitor of this department for an opinion. You suggest that such an opinion would be useful for the guidance of the department and of the Congress at the special session. In view of the fact that the department has heretofore, and on careful consideration, adopted its position concerning the points you raise, it is not deemed appropriate at this time to refer them as suggested. Accordingly, your request is denied.

Yours very truly,

S. G. HAWKINS,
Assistant Secretary.

Mr. Chairman, I want to say in that connection that there has never been an opinion of any legal officer of the department ever rendered upon the question holding that the Red Lake Band was the owner of the Red Lake Reservation.

Mr. KELLY. It was well known to you, however, at the time that you wrote the letter just what decisions had been made, and what construction of the law had been adopted by the department?

Mr. BALLINGER. Yes, sir.

Mr. JOHNSON. Well, then, you were asking a question which you well knew at the time, so far as guiding any legal action that had been taken was concerned, is that true?

Mr. BALLINGER. The action of the department had been taken without any opinion from any source so far as I could find out.

Mr. KELLY. It was presumed you knew what rule of action they were acting upon.

Mr. BALLINGER. I had no doubt in my own mind that if any law officer of the Government ever looked into it that he would sustain the contention I am now asserting. With the permission of the committee, I should like to have these two letters inserted in the record.

The CHAIRMAN. Without objection, it is so ordered.

(The said letters follow:)

MAY 3, 1919.

HON. S. G. HOPKINS,

*Assistant Secretary, Department of the Interior,
Washington, D. C.*

DEAR MR. SECRETARY: The indications are that Congress will be called in special session in the next 30 days. One of the first matters that will be taken up when Congress reconvenes will be the Indian appropriation bill. Certain legislation pertaining to the Chippewa affairs will be asked by the Indian Bureau. The legislation desired by the bureau affects property rights of great value that are in dispute. They have never been passed upon by any judicial or law officer. I, therefore, suggest and request that three questions pertaining to the Chippewa estate in Minnesota be referred to the solicitor for the Department and an opinion obtained thereon for the information and guidance of Congress and the department prior to the enactment of any further legislation touching this estate. These questions are set out in the petition I filed with you under date of April 5, 1919, and which was printed in full in the Tomahawk of the issue of April 24, 1919, copy of which I inclose. The three questions are as follows:

"First. Under the act of January 14, 1889 (25 Stat., 642), and the agreements entered into, and cessions made, thereunder, were all the lands of the Red Lake Reservation, not needed to make and fill the allotments to the members of the Red Lake Band provided for in that and existing acts, ceded to the United States in trust to be disposed of by the United States as the act of January 14, 1889, directed, for the benefit of all the Chippewas of Minnesota, or were all of said lands reserved for the exclusive use and benefit of the members of the Red Lake Band which was only one of 14 bands comprising the Chippewas of Minnesota?"

(This matter is reviewed at length in paragraphs 2, 3, 4, 5, and subparagraphs "d" and "e," or paragraph 6 of the petition filed April 5, 1919, said paragraphs being marked on the inclosed copy with an "x" in red pencil at the commencement of each paragraph.)

The Indian Bureau has for years treated this property as belonging exclusively to the Red Lake Band. The general council insists that this property belongs to all the Chippewa Indians of Minnesota of which the Red Lake Band forms an integral part. Legislation affecting the title to this property will be sought by the Indian Bureau in the Indian appropriation bill. The question has never heretofore been considered or passed upon by the law officer of the department or by any court.

"Second. Were all the unallotted lands now being held in the Fond du Lac, Grand Portage, Leech Lake, and Nett Lake Reservations ceded to the United States by the agreements entered into under the act of January 14, 1889, in trust, and those reservations abolished, and is there authority of law for the maintenance of said reservations at this time?"

(This is considered in subparagraph "h" of paragraph 6 of the petition filed on April 5, 1919, and is marked "xx" in red pencil on the copy of the Tomahawk inclosed.)

For years the Indian Bureau has been maintaining six reservations among the Chippewas at great annual expense. The general council insists that four of said reservations were ceded to the United States in 1889 to be sold and disposed of and that there has never been any authority of law since that date for their maintenance.

"Third. Does the act of January 14, 1889 (25 Stat., 642), as agreed to by the Chippewas authorize the use of the trust funds accruing thereunder in defraying the expense of the Indian Bureau in the maintenance of its regular governmental agencies in Minnesota?"

(This is covered in subparagraph "i" of paragraph 6 of the petition filed April 5, 1919, said paragraph being marked "xxx" in red pencil on the inclosed copy of the Tomahawk.)

For a number of years the Indian Bureau secured appropriations from Congress of about \$185,000 per annum out of the trust fund of the Indians to be used for their support and civilization and then used the money thus appropriated to defray the expenses of the Indian Bureau in Minnesota. The general council insists that the Indian Bureau has not now and never had any lawful right to use said funds for such a purpose. At the last session of Congress the Senators and Representatives who had the matter in charge became convinced that these funds could not lawfully be appropriated and used for such a purpose, and accordingly struck the entire appropriation from the bill.

If these questions are promptly submitted to the Solicitor with the request that they be made special a legal opinion can be obtained in time for the guidance of the department and Congress in legislation at the special session. The departmental officers should desire an interpretation of the law and the Indians are entitled to it, and I hope the suggestion herein contained will meet with your approval.

In this connection I may properly call your attention to the beneficial effects that followed a reference of another question pertaining to the rights of new-born children to share in the Chippewa estate. The solicitor's decision of February 17, 1919, sustained the contention of the general council, protected about 1,000 minor children against the unauthorized action of the Indian Bureau and saved to them estates worth somewhere between \$1,000 or \$3,000 per head, as well as conferring like benefits upon the children to be born prior to distribution. It ended a controversy of long standing that had engendered much bad feeling on the part of the Indians toward the Indian Bureau and consequently the department, and I believe that the action that I have suggested will promote a better understanding and better relations than have heretofore existed.

Sincerely, yours,

WEBSTER BALLINGER.

DEPARTMENT OF THE INTERIOR.

Washington, May 22, 1919.

MR. WEBSTER BALLINGER,
Attorney at Law, Washington, D. C.

DEAR MR. BALLINGER. I have considered your letter of the 3d instant, in which you request that certain questions relating to the affairs of the Chippewa Indians of Minnesota be referred to the solicitor of this department for an opinion. You suggest that such an opinion would be useful for the guidance of the department and of the Congress at the present special session.

In view of the fact that the department has heretofore, and on careful consideration, adopted its position concerning the points you raise, it is not deemed appropriate at this time to refer them as suggested. Accordingly your request is denied.

Yours, very truly,

S. G. HOPKINS,
Assistant Secretary.

MR. BALLINGER. Now, Mr. Chairman, when the commissioners went to the Indians and submitted the act of January 14, 1889, the Indians at first refused to deal with the Government officers upon the ground that the United States had up to that time failed to fulfill and redeem any treaty it had previously entered into with the Indians. Without reading it here, I am going to ask to have inserted in the record the parts marked on pages 143 and 144 of Executive Document No. 247.

The CHAIRMAN. How long are those?

MR. BALLINGER. They are short.

The CHAIRMAN. Then I desire to have them read before they are put into the record.

Mr. BALLINGER. Now, this is a statement of one of the Indian chiefs, No-Din-Ah-Quah-Um:

I wish to state that I think that what those commissioners bring is a very heavy load, but I understand it. I have been advised by no one. No one has invited me to touch the pen. What I have said is of my own volition. I should have a very small allotment of land myself, compared with those who have large families. When we heard that our friend would arrive here, we prepared to receive him as he should be received. The emblem that I see floating above us, that is the sign of good feeling, of peace, of friendship. I thoroughly believe that it is the intention to fulfill everything in the agreement. We ought to be guided by the course of our relatives who have accepted this agreement. I myself believe that it is all done in good faith and that the Indians can rely on the fulfillment of everything that has been said. We are told that if we accept the propositions made the matter will be laid before our Great Father in 60 days, at the time when the first snow falls. We call upon the bishop. He is an apostle of Almighty God, and would of course not say otherwise than as God told him. I will ask these commissioners to raise up their hands and say that they will fulfill the arrangements made, if they are serious with us.

Now, turning to the next page:

I insist upon the raising of hands as to what I told the bishop. (The three commissioners then rose and raised their hands in affirmation of the promises made, the chairman saying: "We promise to do all in our power to carry out the understanding.")

Mr. RICE. You have been deceived and disappointed many times, so that I am not surprised that you should put us to this unusual test.

Kay-Ke-Now-Aus-E-Kung (after telling the Indians that the commissioners had given the strongest possible test). The reason we take so much pains in this matter is that the Government has never fully kept its promises to us in the past and I can not be blamed for doing so when I am acting for my own benefit and for my own interest and the benefit and interest of my children.

The CHAIRMAN. Now, Mr. Ballinger, will you tell us how all this argument down to the present moment applies to the bill, the legislation that you are proposing here? How does this argument apply to it?

Mr. BALLINGER. Mr. Chairman, the bill introduced by Congressman Ellsworth provides for the disposition of the Red Lake Reservation. The draft of the department is silent upon the Red Lake Reservation and leaves it intact. We want that Red Lake Reservation dealt with in this legislation.

The CHAIRMAN. Since the law is very clear, as you have stated, down to the present time, it seems to me that it is more a matter for the Court of Claims than it is for any legislation such as is proposed here. There does not seem to be any need for this legislation, and, as I understand it, legislation can not be created that would determine, merely, something that has already been determined. It is simply a question of somebody deciding whether the law already enacted is being enforced or not, and that does not seem to me to be a congressional question.

Mr. BALLINGER. I read these extracts from this report to show that the Indians had an agreement and that they tried to surround themselves with all the solemnity that is possible.

The CHAIRMAN. I am not referring to just the last sections you have been reading, but your whole argument down to the last moment deals with laws which are now on the statute books. If you can enforce those laws you do not need any other laws on the subject.

Mr. BALLINGER. I want to show the committee the messed up condition in which this estate is to-day.

The CHAIRMAN. But still you are not asking for anything which does not already exist in the law.

Mr. BALLINGER. Oh, yes, Mr. Chairman; we are asking that the agreement of 1889 be carried out.

The CHAIRMAN. But that refers only to a law that does exist.

Mr. BALLINGER. But subsequently Congress has attempted by laws to repeal and change and modify the agreement of 1889, without the consent of the Indians and to their injury, and as a result has tied up the Red Lake Reservation so that very few allotments, if any, can be made on that reservation.

The CHAIRMAN. Well, even then it would seem to me if further legislation were brought about, it would simply tangle the matter still more. So long as the fundamental law with reference to the distribution of that property is in existence it seems to me that the whole question is one simply of the enforcement of that law and that that would not be a matter for further legislation.

Mr. ELSTON. You contend that since 1889 Congress by different legislation has altered and changed the act of 1889?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. And what you want us to do is to provide that the original treaty of 1854 and agreement of 1889 shall be carried out as Congress intended and that all those other acts passed subsequently shall be repealed.

Mr. BALLINGER. Yes, sir.

Mr. KELLY. Well, do you want us to repeal those acts or to exercise the judicial function of regarding them as being void by reason of the fact that the Indians did not agree to them; and then by legislation to change a treaty that was entered into?

Mr. BALLINGER. Let me make that plain. I do not want to be talking here for two days and then find out that there is nothing we can do. The laws that have been passed up to the present time and subsequent to 1889 have all been laws designed and intended to prevent allotments being made to these Indians. Now what we are asking is this, that some law be passed here now that will provide for immediate allotments to those Indians residing on that reservation and that the reservation be opened up and disposed of in accordance with the agreement of 1889.

The CHAIRMAN. Now, do we understand it is your contention that all these acts previous to the one in which you are now interested made no provisions for allotments?

Mr. BALLINGER. There were provisions made in all these previous treaties and agreements.

The CHAIRMAN. But that there have been no allotments made?

Mr. BALLINGER. That there have been no allotments made on the Red Lake Reservation.

The CHAIRMAN. Did the law not provide that there should be allotments?

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. And were not large pieces of land set aside for allotments?

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. Why were not the allotments made?

Mr. BALLINGER. It was claimed that the Indians did not want to take their allotments.

The CHAIRMAN. How do you expect we are going to now create a law which would not do any more than the laws already existing. As I understand it, by the legislation you are now asking, you are simply asking that we do again what Congress has already done.

Mr. BALLINGER. In the law of May 18, 1916, for instance, Congress undertook to completely change the agreement of 1889, and also by the law passed in 1904, they completely changed the provisions of the act of 1889 with reference to allotments and the disposition of that property. Now it is necessary that some legislation be passed that will enable those Indians to get their allotments at this time; otherwise they will sit back in their present condition with a closed reservation of practically a half million acres of land upon which no taxes can be imposed no school nor drainage facilities or anything of that sort.

The CHAIRMAN. I want to ask you one further question. As I stated in the opening of this hearing, a few weeks ago you left this committee with the understanding that all the parties involved in this matter would try to get together, and that you believed an arrangement could be made between those parties and the bureau that would be an approximate agreement. Now, how near have you come to that agreement?

Mr. BALLINGER. Well, we have come, I should say, about two-thirds of the way.

The CHAIRMAN. Well, now, is the other bill in such a condition that it can be agreed upon, or is it in about the same position that the League of Nations seems to be in to-day?

Mr. BALLINGER. I am afraid that it is in about the same position as the League of Nations.

Mr. DALLINGER. I would like to ask this question: Assuming that we do pass this bill reenacting the treaty of 1854 and the act of 1889, and repeal all subsequent legislation that is in any way an interference with that, what guarantee are we going to have that the Indian Bureau will pay any more attention to it than they have, according to your contention, to the acts of 1854 and 1889?

Mr. BALLINGER. I can only say this, that this General Council that the Chippewas have has been functioning since 1916, and since 1916 there have been great reforms brought about in that country, largely through the aid of you gentlemen here. They have been able to furnish you information and you gentlemen have put into execution by reductions in appropriations large reforms, and through the Indian Bureau. Of course, if laws mean nothing, if agreements mean nothing, then we are all uselessly idling away our time. But we take it that at this stage of the case during this era that the laws of Congress do mean something and that they will in the future be enforced.

Mr. RHODES. It is very necessary to my understanding of this matter to know why the department has not made these allotments provided for in the act of 1889—whether it was upon the request of the Indians, or whether it was due to subsequent legislation of Congress, amending or repealing. I think we could clear up this situation and come to a better understanding if Mr. Meritt would just state there—

The CHAIRMAN. I am in sympathy with the suggestion, but Mr. Ballinger has only partially finished his argument, and I think the committee would like to hear his version, his argument. He can

give us what he believes to be the reason why the bureau has not made the allotments. Thereafter his arguments can be rebutted.

Mr. KELLY. That is what I would like to have from Mr. Ballinger. I am sure he is very well acquainted with what he believes to be their reason for that.

The CHAIRMAN. Yes; what I am trying to do now is to get right down to the issue itself.

Mr. KELLY. You are referring to their ostensible reason for blocking you. Now, just give us that.

Mr. BALLINGER. Gentlemen of the committee, I have been trying to lay the basis of the claim of title. I want to make that as clear as I can.

The CHAIRMAN. I think we have that cleared up all right.

Mr. BALLINGER. Now, then, with your permission, I shall endeavor to elucidate each and every one of these questions. I may be going too much into detail, but my clients are very much interested in this, and they are very desirous that you might know exactly the facts as they understand them.

The CHAIRMAN. I would like to have you understand, too, that this committee is very much interested in this whole matter and desires as quickly as possible, but with due consideration, to get right down to the main issues involved here. If you will get right down to the bill itself and tell us what you want and what we can do, that is what we would like.

Mr. COLE. I would like to ask the gentleman why it was that these allotments were not made. Was it because of failure on the part of the department, or was it due to subsequent legislation?

Mr. BALLINGER. It was due to both. It was due in part to the nonaction of the department, and it was due in part to the subsequent legislation of Congress.

The CHAIRMAN. Brought about by whom?

Mr. BALLINGER. Brought about by the department, recommended by the department, and transmitted here.

The CHAIRMAN. In other words, it is your contention that the department thought Congress made a mistake in passing the acts of 1904 and 1916.

Mr. BALLINGER. Yes, sir. Now, gentlemen, with your permission I am going to jump over a little bit on my notes. I would state that the agreement of 1889 has never been carried out in any respect as the agreement itself provides. Not a single provision of it has ever been carried out. Now, I want to state in that connection that in the case of *Minnesota v. Hitchcock*, 185 U. S. 395, 229 U. S. 509, the Supreme Court of the United States held that by that agreement a trust was created that was binding alike upon the United States and the Indians. In that case, and the latter case, the *Mille Lake case*, 229 U. S., Congress had by two resolutions undertaken to dispose of a part of this property in a different way from than was provided for in the agreement of 1889, and the court held that this was in violation of the agreement and gave judgment against the United States for about \$800,000. Now, section 3 of the act of 1889 provided that allotments should be made to the Indians under the general allotment act of 1887. Section 2 of the general allotment act of 1887 provided that if any Indian failed to take his allotment within four years the Secretary was to make an arbitrary allotment to the Indian. So that under the

agreement of 1889 there was no excuse for the department failing to make allotments to the Red Lakes. It is claimed by the department and has been claimed by the department that the Red Lake Indians do not now and never have desired allotments. Mr. Chairman, I have here a large bundle of letters from the department to the Indians who asked for allotments. This letter, similar to all the others, is dated March 10, 1908.

The CHAIRMAN. Just read it.

Mr. BALLINGER (reading):

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 10, 1908.

Subject: Application for allotment.

CHARLES CHABAYEA,
Red Lake, Minn.

MY FRIEND: The office is in receipt of your letter of February 17, 1908, making application for an allotment of the S. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ and lots 3 and 4 of section 12, T. 150. R. 35, Red Lake Indian Reservation, for your son, David Chabayea, and for the N. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ and N. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of section 33, T. 153, R. 33, for yourself, under the provisions of the act of February 20, 1904 (33 Stat. L., 46).

Your applications have been filed and when the question of giving the Indians of the Red Lake Reservation allotments in severalty shall have been determined will be given consideration.

Very respectfully,

C. F. LARRABEE,
Acting Commissioner.

The other letters are identically the same.

The CHAIRMAN. What period of time do those letters cover?

Mr. BALLINGER. They cover a period from 1901 to 1912.

Mr. RHODES. What I would like to know is whether between this letter dated 1908, March 10, 1908, which is 19 years after the act of 1889 was passed, there was any intervening legislation by Congress changing or amending in any way the act of 1889.

Mr. BALLINGER. Yes, sir.

Mr. RHODES. I mean prior to the writing of this letter in 1908.

Mr. BALLINGER. Yes, sir; here is where the real trouble started. The white population in that section desired a part of this land embraced in the diminished Red Lake Reservation. You remember that the commission reserved nearly 700,000 acres so that the 1,103 Indians residing on the Red Lake Reservation might select as their allotments the best land out of this 700,000 acres. When the allotments were selected, under the agreement of 1889, the residue of the land and the timber thereon was to be sold and the proceeds placed in the Treasury to the credit of all the Chippewa Indians in Minnesota, of which the Indians residing on the Red Lake Reservation constituted only an integral part. In 1902, in response to the demands of the white people, the department sent a representative to the Red Lake Reservation to make an agreement with the Red Lake Band for the cession of a part of the 700,000 acres. The Red Lake Band was not the exclusive owner of the land it was desired to open. The land belonged to all the Chippewa Indians in Minnesota. If it was desired to open this land to entry, under the agreement of 1889, all that was necessary was to make the allotments to the Red Lake Indians and the remaining land automatically became subject to homestead entry. The land the white people desired consisted of 256,000 acres on the west and southwest part of the reservation.

This was the best land for allotment purposes within the 700,000 acres reserved. It was contiguous to towns and to the developed section of the State.

By taking their allotments on this land, the Indians would have been afforded easy access to markets and would have received good agricultural land, land equal to any farming land in the State of Minnesota. The whites desired this land for themselves, and the department fell for their proposition. The representative of the department went to the Red Lake Reservation in 1902 and negotiated an agreement with the Red Lake Band for the cession to the United States of 256,152 acres. The agreement as negotiated provided that the United States should pay \$1,000,000 for the land; that \$250,000 of this amount should be distributed immediately among the members of the Red Lake Band, to the exclusion of all the other Chippewas, and that the remaining \$750,000 should be paid exclusively to the members of the Red Lake Band in 15 annual installments of \$50,000 each. It also provided that the title to the remaining lands on the Red Lake Reservation should be exclusively in the Red Lake Band. The scheme was a vicious one. It first proposed to take the property of all the Chippewas in Minnesota and confer it upon the Red Lake Band exclusively, and, second, it proposed to take the land that was principally valuable for allotment purposes away from the Indians and turn it over to the white people. It was a plain bribe to the Red Lake Indians to violate their agreement entered into in 1889 with the United States and the other Chippewa Indians. The Red Lake Indians readily assented to the proposition, and thereafter, and for the first time, so far as any official record goes, asserted claim to the ownership of all the property on the diminished Red Lake Reservation. That agreement as negotiated appears in 33 Statutes at Large, pages 46, 47.

That agreement as negotiated by the department was transmitted to Congress and by Congress amended, the principal amendments being with reference to the payment for the land ceded. As amended, it was put on as a rider to the Indian appropriation bill approved March 3, 1903, the place where nearly all vicious legislation is sought and obtained; and became a part of that act, as will appear by reference to 32 Statutes at Large, pages 1909-1910. The provision as adopted, however, provided that this provision must be accepted by the Indians before it became operative. It was submitted to the Indians and by them rejected. Not satisfied with this, the department again transmitted the matter to Congress and it was enacted into law by the act of February 20, 1904, 33 Statutes at Large, pages 48, 49 and 50, in modified form. The provisions of the original agreement, however, under which the Red Lake Indians were to receive the entire proceeds derived from the land sold and were to thereafter hold the Red Lake Reservation as their exclusive property, remained intact. By this act on the part of the department a claim, valid in every respect for from two to five million dollars has arisen against the Red Lake Band and the United States, a good portion of which the United States must ultimately pay.

The CHAIRMAN. Just a moment. What do you say about this act of February 20, 1904, in which an agreement was entered into, of which article 4 reads as follows: "It is further agreed that said Indians belonging to said Red Lake Reservation in Minnesota

shall possess their diminished reservation independent of all other lands of the Chippewa tribe of Indians and shall be entitled to all allotments thereunder of 160 acres each of either agricultural or pine lands, the different class of lands to be apportioned as may be equitable and just among the allottees."

Mr. BALLINGER. My answer is that the Red Lake Indians were only one band. They had only a limited interest in the Red Lake Reservation, and they could not acquire title by agreeing with themselves that they should own the reservation absolutely.

The CHAIRMAN. Your contention would be that this agreement is not valid on account of all the Chippewas not being considered in it.

Mr. BALLINGER. Yes, sir. And in addition, Mr. Snyder, that law that you hold in your hand provides for allotments, but no allotments were made.

The CHAIRMAN. It says that allotments may be made.

Mr. BALLINGER. Yes, sir.

Mr. RHODES. I do not have that before me, but does that purport to be an agreement?

The CHAIRMAN. This is an agreement with the Chippewa Indians for the sale of lands ceded.

Mr. RHODES. Does it purport to be an agreement with all the Chippewa Indians or just the Red Lake band?

The CHAIRMAN. Just with the Red Lake band.

Mr. BALLINGER. Now, that Red Lake Reservation was continued intact. No allotments were made to them and these annual payments were made to them. In 1916 the Indian Bureau drafted a provision of law which was sent to Congress and included in the Indian appropriation bill approved May 18, 1916 (39 Stat. 137). This provision starts out with these words, "To carry into effect an act entitled an act for the relief and civilization of the Chippewas in the State of Minnesota, approved January 4, 1889, to provide for the establishment and administration of a forest reserve and for the sale of timber within the Red Lake Reservation, Minnesota; that the following-described lands within the Red Lake Reservation, Minnesota, be and the same are created into a forest reserve to be known as the Red Lake Forest."

Instead of carrying into effect the act of 1889, it cut the heart out of it. After establishing a forest reserve, this provision of law provided:

That no such allotment shall exceed eighty acres nor have more than eighty rods fronting upon a lake shore: *Provided further*, That in case an Indian has improved and cultivated more than eighty acres, his allotment may embrace his improvements to the extent of one hundred and sixty acres.

It will be observed that in order to obtain an allotment within this forest reserve three conditions must be present: First, the land must not contain standing or growing merchantable pine timber; second, it must be suited for the production of agricultural crops; and third, it must be facing on a lake shore. These three limitations exclude allotments within the forest reserve. The Indians reside largely along the south shore of the lake. There are as many as eight families living on a 40-acre tract. They live largely in the forest reserve. On the south side of the lake there is less than 20 miles of land fronting on the lake fit for allotment purposes. As the law limits the frontage of an allotment on the lake shore to 80 rods, not more than 80 allotments

could be made. This land can not be allotted under the act of 1916 as a part of it contains stands of merchantable timber. There is some land on the peninsula, and by that I mean a tongue of land extending from the eastern shores and forming the southern boundary of upper Red Lake and the northern boundary of lower Red Lake, that could be allotted under the act of 1916. It is safe to say that under the limitations contained in that act not more than 20 allotments could be made. Without the limitations contained in that act every Indian on the Red Lake Reservation could be allotted. That act was evidently drawn by some one wholly unfamiliar with physical conditions existing, or with the direct purpose of preventing allotments from being made. The map which I now exhibit to you of the Red Lake Reservation shows the situation I have portrayed.

The act then provided:

That said forest shall be administered by the Secretary of the Interior in accordance with the principles of scientific forestry, with a view to the production of successive timber crops thereon, and he is hereby authorized to sell and manufacture only such standing and growing pine and oak timber as is mature and has ceased to grow, and he is also authorized to sell and manufacture from time to time such other mature and marketable timber as he may deem advisable, and he is further authorized to construct and operate sawmills for the manufacture of the timber into merchantable products and to employ such persons as he shall find necessary to carry out the purposes of the foregoing provisions, including the establishment of nurseries and the purchase of seeds, seedlings, and transplants when needed for reforestation purposes.

Senator Nelson, one of the finest men who ever lived, indorsed this act of 1916 because he believed that in this forest reserve the primeval forest of Minnesota could be preserved and perpetuated. Like everything else that has occurred in Chippewa matters in Minnesota, he was deceived. This provision was in fact obtained through the department by the lumber interests of Minnesota. It was easier to deal with the department for all the timber than it would have been to have dealt with each allottee had the land with the timber on it been allotted. No sooner was the law enacted than the department entered into a contract with the International Lumber Co., the contract being dated November 19, 1917, under which that company was authorized to cut all the merchantable timber within the greater portion of the forest reserve. This practically destroyed the forest. It takes 200 years in that country for a white-pine tree to develop. Under this contract the forest is being denuded of all merchantable timber, only the little and scrub trees remaining. So you gentlemen will see that the creation of this forest reserve was essentially in the interest of the lumberman, and that Senator Nelson and every other man who supported it in the belief that he was preserving the primeval pine forest of Minnesota was deceived. But they had no right to take the Indian property, ceded to the Government in trust under the agreement of 1889, and lock it up in perpetuity, even for the preservation of the primeval forest of Minnesota. That was unfair to the Indian. It was taking his property without compensation. It was a violation of a sacred agreement entered into with the United States.

Mr. JOHNSON. What do you think the object of that was?

Mr. BALLINGER. Why, the alleged reason for the creation of that was that there was a heavy stand of timber on the Red Lake Reservation, and the department claimed it would not be fair to allow the Indians to come in there and take allotments, as some of them would

get more valuable allotments than the others. This right was guaranteed to them by the agreement of 1889. But in the allotment of lands all the Chippewas of Minnesota have had the privilege of selecting and taking timber lands. There are still valuable stands of timber on the Red Lake Reservation, and the general council says there is no reason why the Red Lakes that have timber upon lands they desire for allotments should not have the benefit of the timber. The real reason, in my mind, was that by the establishment of that forest reserve it perpetuated the Indian Bureau in Minnesota and enabled its employees to perpetuate their jobs.

Mr. ELSTON. That was within the area of the 700,000 acres?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. What became of the area outside of that?

Mr. BALLINGER. Two hundred and fifty-six thousand acres were ceded under the act of 1904 and the rest is being held.

Mr. ELSTON. What became of the proceeds that came from the sale of the 2,000,000 acres cut off the Red Lake Reservation under the act of 1889?

Mr. BALLINGER. That is in the Treasury of the United States to the credit of all the Indians.

Mr. ELSTON. Do the Red Lakes make any claim to any portion of that fund?

Mr. BALLINGER. Oh, yes.

Mr. ELSTON. They make no claim as to the land in excess of the 700,000 acres?

Mr. BALLINGER. Only in common with all the other Chippewas.

Mr. ELSTON. So that to some extent a portion of the act of 1889 has been carried into effect?

The CHAIRMAN. But they do claim a hundred thousand dollar payments.

Mr. ELSTON. That million dollar payment, or \$250,000 a year.

The CHAIRMAN. \$250,000, with \$100,000 per annum.

Mr. ELSTON. But those were not payments outside of this 700,000-acre reservation for allotment purposes—this million dollar payment.

Mr. BALLINGER. That million dollars was more than a million dollars, because under the agreement as changed by Congress it brought more than a million dollars.

The CHAIRMAN. But the Red Lake Indians got every dollar of that money?

Mr. BALLINGER. Every dollar of that has been paid to the Red Lakes.

Mr. ELSTON. Where was that, outside of the 700,000 acres?

Mr. BALLINGER. Within.

Mr. ELSTON. That is what I thought. It was within the 700,000 acres. The Red Lake area outside of that was over 2,000,000 acres, and that has all been sold for the common use of the Chippewas. That is now in the United States Treasury, and the Red Lakes do not claim any peculiar interest in that, except an interest in common; is that true?

Mr. BALLINGER. Yes, sir.

Mr. RHODES. Was it sold prior to this act of 1904, this excess land in excess of the 700,000 acres inquired about by Mr. Elston?

Mr. BALLINGER. Yes, sir; under the agreement of 1889. Prior to this act of 1904 no one ever heard of the Red Lake Indians asserting a claim until this agreement was negotiated with the Red Lake Indians in 1902.

Mr. ELSTON. Well, now, if we have the jurisdictional bill here enacted, will the Red Lakes come back and claim a portion of the funds raised by sale of the lands in excess of the 700,000 acres which is now claimed by all the Chippewas in common?

Mr. BALLINGER. No, sir; the Chippewas insist that they are entitled to their share per capita of the proceeds of all sales of land on and off the Red Lake Reservation.

Mr. ELSTON. They are basing their claim as to the 700,000 acres on a different ground entirely from what they claim an interest in the excess over the 700,000 acres? That, they say, they hold in common.

Mr. BALLINGER. I might say that the basis of the Red Lakes' claim, as now asserted, as I understand it, is that the commission reserved 700,000 for allotment purposes.

Mr. ELSTON. That they owned it originally from the treaty of 1854.

Mr. BALLINGER. They claim now that they did have some interest in the land prior to that time, but by their own agreement in 1889 they ceded everything in the Red Lake Reservation that was not needed for allotment purposes.

Mr. ELSTON. I can easily see where there is some broad question about the 700,000 acres.

Mr. KELLY. Do you claim that the proceeds even of this 700,000 acres should go to the common fund, anything sold outside their allotments to those Indians?

Mr. BALLINGER. Absolutely, and the commission in its report states that the very object of reserving the 700,000 acres of land was that much of it was swamp land and that the commission desired to reserve enough land so that the Indians could select suitable land for allotment purposes. All of the other reservations with the exception of the White Earth Reservation were ceded in their entirety, sold and the proceeds placed in the Treasury for the common benefit of all the Chippewas, including the Red Lakes.

Mr. KELLY. But the limited area reserved for allotments was in excess of an amount sufficient to make individual allotments?

Mr. BALLINGER. Yes, sir.

Mr. KELLY. On the basis of what would be an ideal allotment of 160 acres, would you say?

Mr. BALLINGER. Under the agreement of 1889 it was contemplated and provided that all the Indians other than those residing on the White Earth Reservation and the Red Lake Reservation were to be moved to the White Earth Reservation and then allotted.

Mr. RHODES. Have they adopted either an aggregate area, or have they the same rule as the bureau is now trying to—

Mr. BALLINGER. On the White Earth Reservation, after the allotments have been completed.

Mr. RHODES. Just a moment there. If there is anything left on the White Earth Reservation, after the allotments are made, there is no contention that that is the land of the White Earths?

Mr. BALLINGER. None whatever. It is the common property of all the Chippewas, including the Red Lakes.

Mr. RHODES. How were these allotments made on the White Earth Reservation, were they given a certain number of acres, or were some given more? In other words, were they given 160 acres, 240 acres, or did they all get the same?

Mr. BALLINGER. On the White Earth Reservation they all got the same allotment. They each received 80 acres of land. In 1904 Congressman Steenerson introduced a bill that was passed by Congress which provided that the Indians should be given 160 acres of land or 80 acres additional. Now, I can well understand how there was some difference of opinion. The General Allotment act of 1887 provided for allotments —

To each head of a family, one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section; and to each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section.

In negotiating the agreements under the act of 1889 the Indians understood that each man, woman, and child was to receive 160 acres, and not merely the heads of families. I think the explanation of the commission to the Indians of the act of 1889 clearly justified them in reaching this conclusion. As a matter of fact it was an erroneous construction of the General Allotment act. In order to deal fairly with these people Mr. Steenerson introduced the bill that became the act of 1904 (act of Apr. 28, 1904, 33 Stats., 539), authorizing allotments of 160 acres, and the bill you have under consideration authorizes allotments of 160 acres to the Red Lake Indians and to any others that may be enrolled.

The CHAIRMAN. Now, a few moments ago you stated that the reason the forest reserve was created by the bureau was to perpetuate the Indian Bureau. You had reference to perpetuating the activities of the Indian Bureau in that particular section?

Mr. BALLINGER. Precisely. Of course, not here in Washington—I meant the activities of the Indian Bureau in Minnesota.

The CHAIRMAN. Well, now, if you should get all that you desire to get in this legislation, how long in your judgment do you think it would take to get the activities of the Indian Bureau out of that section?

Mr. BALLINGER. I think, Mr. Chairman, if the Ellsworth bill were adopted as introduced, with some slight changes in phraseology, and that is all the Indian Office has asked with the exception of this Red Lake situation, that the Indian Bureau would cease to function in Minnesota within the next six or seven years. I think they would be at an end.

Now, I want to call attention further to this act of 1916. It provided for the sale of timber, and provided for the deposit of the funds derived from the sale of timber and otherwise in the Treasury of the United States to the credit of the Red Lake Indians, not to the credit of the Chippewas of Minnesota.

Mr. RHODES. But that was within the 700,000 acre reservation?

Mr. BALLINGER. Yes, and it provided that it should draw interest at the rate of 4 per cent per annum. The agreement of 1889 provided that the proceeds derived from the Red Lake property should be deposited in the Treasury to the credit of "all the Chippewas of Minnesota" and should draw interest at the rate of 5 per cent per annum;

and the Indians there have a claim not only for the principal sum but the difference of 1 per cent in interest. The proceeds are now in the Treasury of the United States but unless legislation is passed that will refer this question to a court and the funds are held intact until the court can decide the ownership, those funds will probably be distributed among the Red Lakes, and further claims against the United States will accrue.

Now, Mr. Chairman, there is a matter that will come before this committee, to which I desire to direct your attention. It will come either before this committee, or before some other committee of the House. Some years ago under a resolution of Congress the War Department made an investigation as to a feasible plan for draining the lands contiguous to the Red Lake River. The Red Lake River has its mouth in the southwest corner of Lower Red Lake and flows down to and empties into the Red River of the North. The plan is to drain the lands contiguous to the Red Lake River. The white people along that river are intensely interested in that drainage plan, and according to this report (H. Rep. No. 61, 66th Cong., 1st sess.), about 29 sections of Indian lands would be directly affected and directly drained by that project, at a cost to the Indians of \$236,800; and then under the plan submitted there would be a further annual charge against the Indians of about \$3,650.

That would be pretty expensive drainage. There would be about 115 Indians who could be allotted on those 29 sections of land. Now, it is true that the rest of the lands, those lands up here, and aggregating about 200,000 acres will be more or less affected by that drainage plan, as it proposes to lower Red Lake 4 feet, but the effect upon those lands is purely problematical. I desire to call your attention to that matter so that when that plan comes up later in Congress this committee, whether it comes before it or one of the other committees of the House, can at least look into it with care. I assert that the plan as proposed is largely for the benefit of the white man at the expense of the Indian.

Mr. ELSTON. How deep is that lake now?

Mr. BALLINGER. Probably 40 feet at the deepest point. Now, Mr. Chairman, I want to tell the committee the appeals that were made to me when I was on the Red Lake Reservation in July of this last year. Several of the younger members of the tribe came to me and asked me if something could not be done for them. They explained that there was no way by which they could take allotments and go on them and improve them with any certainty that the allotments would ultimately be made to them. They explained that they could go off of the reservation and secure employment at wages ranging from five to ten dollars per day, but if they did so they deemed it best to take their families with them, and if they took their families and remained off of their reservation in permanent employment when the allotments were made they would probably lose their allotments.

If they remained on the reservation there would be little to do but to obtain employment part of the year at a little sawmill, and in the winter season in a logging camp; and they said, "We are tied and helpless. We can neither benefit our condition nor leave, and we are squandering our time and our lives. Can not something be done that will enable us to get a fair and decent sort of living as men and

women?" Now that is the condition on the Red Lake Reservation, and the general council asks this committee to take some step that will enable those people to get an honest and square start in life and to own the land upon which they are now living or to secure land that will be allotted to them and that will be theirs and upon which they can go and make permanent improvements; and if they want to go elsewhere and obtain employment to better their conditions they can do so with certainty that they will not lose their tribal inheritance and the inheritance of their children. At the present time schools can not be established within that reservation and maintained, although the State has generously afforded teachers at Red Lake, and a public school is maintained at Red Lake and one at Redby. The latter is an open town site, but the rest of the reservation is locked up and there can be no development of it until the reservation is opened.

Now, Mr. Chairman, I pass to the question of forest reserves.

Under the act of 1889, all of the lands except so much of the White Earth and Red Lake Reservations as were not needed for allotment purposes were ceded to the United States to be sold and disposed of. In 1902, under the act of June 27, 1902, 32 Stats., 402-403, the Forestry Bureau of the United States conceived the idea that up around Cass Lake was a desirable place for a forest reserve. Appeal was made to Congress under which 200,000 acres of valuable timberland was authorized to be reserved from disposition. With the permission of the committee I will insert the provisions of the law in the bill.

The CHAIRMAN. If there is no objection it is so ordered.

Mr. BALLINGER. The said law provided:

Provided further, That in cutting the timber on two hundred thousand acres of the pine lands, to be selected as soon as practicable by the forester of the Department of Agriculture, with the approval of the Secretary of the Interior, on the following reservations, to wit, Chippewas of the Mississippi, Leech Lake, Cass Lake, and Winnepigoshish, which said lands so selected shall be known and hereinafter described as "forestry lands," the purchaser shall be required to leave standing five per centum of the pine timber thereon for the purpose of reforestation, as hereinafter provided, said five per centum to be selected and reserved in such manner and under such rules and regulations as may be prescribed by the forester of the Department of Agriculture and approved by the Secretary of the Interior: *Provided further*, That there shall be reserved from sale or settlement the timber and land on the islands in Cass Lake and in Leech Lake, and not less than one hundred and sixty acres at the extremity of Sugar Point on Leech Lake, and the peninsula known as Pine Point, on which the new Leech Lake Agency is now located, which peninsula approximates seven thousand acres, and in addition thereto ten sections in area on said reservations last aforesaid, to be selected by the forester of the Department of Agriculture, with the approval of the Secretary of the Interior, in lots not less than three hundred and twenty acres each in contiguous areas, and nothing herein contained shall interfere with the allotments to the Indians heretofore and hereafter made. The islands in Cass and Leech Lakes and the land reserved at Sugar Point and Pine Point Peninsula shall remain as Indian land under the control of the Department of the Interior.

This, like all such legislation, was the entering wedge to be followed later by more definite legislation. The matter rested until 1908 when Congress passed the act of May 23, 1908, 35 Stat., p. 268, creating the Forest Reserve and giving it the name of the Minnesota National Forest Reserve. By this act the lands of the Indians were taken again for the benefit of the whites as the forest reserve was for the benefit of the whites who desired summer recreation grounds and resorts within its limits.

I want to show to the committee a map of that national forest reserve. The law authorized them to take in 200,000 acres. They

threw the boundaries of that forest reserve around a vast area, over 500,000 acres. The lands marked in red on this map are Indian lands. Mr. Chairman, these Indian allotments might almost as well be in the heart of Africa. That forest reserve is inaccessible and the Indians allotted within its area are unable to utilize their lands, and the result is that they in part are the Indians that it is necessary for you to make some little appropriation annually to support and civilize until after—

The CHAIRMAN. How many of them are there?

Mr. BALLINGER. I can not state offhand, but there are probably 400 or 500. Now, this color here, this light bronze, shows the swamp lands that have been patented to or applied for by the State. I am coming to that a little later in my argument, but I call your attention to it now and you will observe that a good portion of those lands are classified as swamp that have been applied for or patented to the State of Minnesota.

The part marked here in yellow is agricultural land. That land can not at the present time be homesteaded or utilized, and there is a large area of that. This part marked in green is the unsold pine lands. You see a little of that around here. The part here marked in blue is relinquished Indian allotments, and the white lands appearing along there is the land that was forest land, but has been cut. Now, gentlemen, there are less than a hundred million feet of timber in that forest reserve yet to be cut, and yet that vast area of land is lying to-day dormant and idle, and has for 31 years, or nearly that, as the result of the creation of a forest reserve there that is of no benefit to anyone.

The CHAIRMAN. Wherein does this legislation affect that?

Mr. BALLINGER. This legislation provides for the sale and disposition of that forest reserve, as provided for in the agreements of 1889.

Mr. MERITT. There is no controversy on that point.

Mr. BALLINGER. But the matter may come up. Now, if you have the House hearings of the last session I am going to ask you to turn to page 286.

The CHAIRMAN. You can read it.

Mr. BALLINGER. Bear in mind that under the agreement of 1889 all the lands outside of the White Earth and Red Lake Reservations were ceded to the United States, and yet 31 years later we find included in forest reservations, upon which agencies are being maintained in Minnesota; 39,567 acres at Fond du Lac Reservation; 24,191 acres, Grand Portage Reservation; 105,047 acres, Leech Lake Reservation; 62,513 acres, Nett Lake Reservation.

Now, let me on this map give you an idea of where these reservations are situated. Here is the Nett Lake Reservation; here is the Red Lake Reservation.

The CHAIRMAN. How far apart are they?

Mr. BALLINGER. The Nett Lake Reservation and the Red Lake Reservation are about 150 miles apart, I should say, roughly. The Leech Lake Reservation is down here. The White Earth Reservation is here.

The CHAIRMAN. Will you state the approximate distances in mileage?

Mr. BALLINGER. Mr. Morrison, you are more familiar with distances in that country than I am. Commence with Grand Portage down to Nett Lake.

Mr. MORRISON. Well, now, let me see just how to get at that. Probably the way you would go, some 200 miles from Nett Lake down. Down from Cloquet it is one hundred and twenty and odd miles from Nett Lake down. From Cloquet to Leech Lake it is a hundred miles. From Leech Lake to White Earth, I mean where the agency is, that would be something like 70 miles; then from there to Red Lake it is 105 miles.

The CHAIRMAN. There is an agency at each one of those points?

Mr. BALLINGER. There is an agency at each one of those points. Now, Mr. Chairman, these forest reserves and these Indian reservations have strangled towns; have all been maintained in violation of law. They have prevented the establishment of schools and drainage districts. They have prevented the construction of roads and they have locked up and prevented the development of vast areas of the State, depriving the Indians of all opportunities of advancement, which was the prime object of the agreements entered into under the act of 1889. By the unauthorized retention of these reservations four agencies have been established and maintained for more than 20 years, contrary to law, at an annual cost to the Chippewa Indians of Minnesota of more than \$75,000 per annum, and the money arbitrarily taken from their trust funds in absolute violation of their agreements with the United States. The Annual Report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919, gives the claimed Indian population of the four reservations upon which these agencies have been unlawfully maintained, the number of agency employees, and the salaries paid them, as follows:

Reservation.	Population.	Number of agency employees.	Total salaries paid agency employees.
Fond du Lac.....	1,074	14	\$8,960
Leech Lake.....	1,738	40	29,794
Nett Lake.....	590	10	5,160
Grand Portage.....			

Among these employees I find Indian police. These Indian police have no police authority. They are used merely as messenger boys but are carried as Indian police. These are ceded reservations and no Indian policeman has the power to make an arrest upon them, yet I find all these overhead charges and expense on reservations that were ceded 31 years ago. I observe that the number of Indians, the population of the Indians, appears in the report, and it has not been revised for a good many years. There is probably about 60 per cent of the Indians enumerated in these reports still living in these localities. These employees have no connection with any schools, and, in addition to the salaries paid, large sums were expended annually from the appropriations for support and civilization of the Chippewa Indians for the comfort of these employees, such as household furnishings, food, and so on. Every dollar of this money has been expended for the maintenance of reservations and agencies in defiance of the agreements of 1889, and by the unlawful maintenance of these reservations the Indians have been pauperized and held back and have been

compelled to accept rations at the hands of the tribe. They have been kept in ignorance, their morals undermined, and their manhood and womanhood impaired.

Mr. HASTINGS. May I ask whether the rolls have been completed with respect to the bands?

Mr. BALLINGER. Substantially so. The commission made the rolls, and the law did not require approval by the department.

Mr. HASTINGS. They do not require approval?

Mr. BALLINGER. But it is necessary to bring those rolls down so as to include those entitled to payments. The newborns come in. Mr. Hastings, and then there are a few entitled to allotments whose cases were not acted upon by the commission. This bill gives the Secretary power to add their names.

Mr. HASTINGS. Do all those bands of Chippewas speak the same language?

Mr. BALLINGER. Oh, yes. Now, I shall pass over the question of the expenses of the schools and will deal with that later. I want to come to the question of swamp lands. There is a provision in the jurisdictional bill to recover back lands from the State of Minnesota that have been improperly patented to the State and remain undisposed of, and also lands that have been applied for by the State, to determine the title of the State to those lands.

Section 4 of the agreement of 1889 provided for the classification of ceded lands into pine lands, and then provided that all other lands other than pine lands were for the purposes of this agreement termed "agricultural lands." And then it provided for the manner of disposition of agricultural lands. So that under that agreement there could have been only two classifications, one pine lands and the other agricultural lands. When the Surveyor General came to making surveys of the ceded lands, he followed the ordinary surveys of lands of the United States and classified and mapped all swamp lands as swamp lands—the lands that were pine lands were classified and mapped as pine lands and the lands that were agricultural lands were classified and mapped as agricultural lands. There was no authority under the act of 1889 for any classification of swamp lands. The result was that the State immediately asserted title or made claim to the land that was mapped as swamp land, and after some controversy the department proceeded to issue patents to the State for a very large amount of that land, how much I have been unable to ascertain, but it is somewhere between two and seven hundred thousand acres of land.

Then, in 1909, the Indians protested against the issuance of further patents to the State upon three grounds: First, that much of the land patented and applied for by the State was not in fact swamp land. Second, that the State was not entitled to further grants, as the State was not complying with the requirements of the act of March 12, 1860, relative to the use of the funds derived from the disposition of the lands patented to it in that the funds were not being used for the purposes of draining swamp lands within the State. And, third, upon the ground that no rights of the State attached to any of the ceded lands under the act of March 12, 1860, as none of the ceded lands were in fact public lands.

Mr. ELSTON. Is there any dispute about this swamp land?

Mr. MERITT. There are some complications in connection with the swamp land. We are quite willing to have that come up for adjudication.

Mr. BALLINGER. Well, that resulted in an order of suspension being issued in 1913, and the order of suspension and the reason therefor I am going to explain. I will ask that these papers be included in the record.

The CHAIRMAN. Let me see them.

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. What do you propose to show by this?

Mr. BALLINGER. That merely shows the order of suspension, and since that order no patents have been issued.

The CHAIRMAN. Do you want that printed?

Mr. BALLINGER. Yes, sir; in the record.

The CHAIRMAN. It is so ordered.

(The said order of suspension follows:)

DEPARTMENT OF THE INTERIOR,
Washington, November 19, 1913.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: I inclose herewith for your information, copy of letter of even date, addressed to the Governor of Minnesota, with reference to the swamp-land grant to that State. Your attention is particularly directed to that portion of the letter which advises the State that the issuance of further patents to it for swamp lands has been suspended.

Respectfully,

A. A. JONES,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, November 19, 1913.

HON. ADOLPH O. EBERHART,
Governor of Minnesota, St. Paul, Minn.

MY DEAR GOVERNOR: Referring to our conversation of recent date and to a communication filed in this department by the Northern Minnesota Development Association, with reference to the alleged failure of the State of Minnesota to comply with the conditions of the swamp-land act of September 28, 1850 (9 Stat., 519), as extended by the act of March 12, 1860 (12 Stat., 3), I have to direct attention to the fact that the act of September 28, 1850, supra, recites that the purpose of the grant is to enable the several States "to construct the necessary levees and drains to reclaim the swamp and overflowed lands thereon * * *," and that section 2 of the act expressly requires "that the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of said levees and drains aforesaid."

The Northern Minnesota Development Association alleges that the State of Minnesota has ignored the foregoing conditions of the grant and diverted the proceeds of the land granted into a general school fund, failing to make provision for the reclamation and drainage of swamp and overflowed lands.

Section 2 of article 8 of the constitution of the State of Minnesota provides that one-half of the proceeds of the principal of all funds derived from sale of swamp lands shall be appropriated to the common school fund of the State and the remaining one-half to its educational and charitable institutions. So far as can be ascertained from an examination of the statutes of Minnesota no provision has been made by the State for the devotion of the proceeds of the sales of swamp lands or by direct appropriation in kind for reclamation work.

I am advised that a considerable area of swamp lands in Minnesota, said to approximate 500,000 acres, still remains unpatented, and in view of the law and the conditions hereinbefore recited, I feel it my duty to suspend the issuance of further patents under the swamp-land grant to the State of Minnesota. In the meantime, in order that the department may be fully advised as to the situation and be enabled to determine what course should be pursued in the matter, the State is hereby requested to submit a full showing as to whether or not it has complied with the terms and con-

ditions of the swamp-land grant, and if not, what steps it proposes to take looking to the performance of the trust imposed upon it in the granting act and assumed by the State when it accepted patents for lands therein granted.

Hoping to be advised that the State is ready and willing to carry out the conditions of the trust, I remain,

Very truly, yours,

A. A. JONES,
First Assistant Secretary.

The reason stated in the order of suspension is not the real ground for the order. The record is being treated as confidential, and therefore the statement I am now about to make is based upon the best information I have been able to obtain. A mistake was made in the survey of the ceded lands under the treaty of 1855 which resulted in somewhere between 200,000 and 1,000,000 acres of the Indian lands that were not ceded by that treaty being thrown open to entry.

Within this area the State of Minnesota erroneously obtained swamp lands under patents from the United States. The Land Office, prior to 1913, reported to the Secretary of the Interior that the State had erroneously obtained title to a large quantity of lands within that area to which it was not entitled and demanded either the restitution of that land or that the amount the State had received to which it was not entitled should be deducted from any amount the State was found by the department to be entitled to under the agreement of 1889. Here the department proposed that the State should make restitution for its ill-gotten gain, but no attempt was made to restore to the Indians or to compensate them for the lands which the Government had acquired as the result of the erroneous surveys under the treaty of 1855, and which had been disposed of. This, I am told from reliable sources, is the real cause for the issuance of the suspension order in 1913. I attach hereto a memorandum of decisions rendered by the department and citation by file numbers of papers filed with the Secretary's Office by the Land Office relating to this controversy. If any of the members of this committee desire to obtain the exact facts they can probably obtain the record from the Solicitor's Office, access to which has been denied to the general council, and thereby obtain the exact facts.

Red Lake lands: Letter to Secretary, February 17, 1914. Appeal to Secretary, May 1, 1915. 518835 and 522509.

Mille Lac lands: August 19, 1914.

Report on Minnesota swamp lands: To department, July 6, 1915. 377661.

Swamp grant—State of Minnesota: Decision of Secretary of Interior, Public Lands 32, page 65.

Swamp land grant—State of Minnesota: 22, decision of department of Interior relating to Public Lands, volume 22, page 388. Swamp land grant, Minnesota, Forest Reserve, 25, decision, Attorney General, page 626. Decision of department of Interior relating to public lands, volume 22, page 301. Letter of A. A. Jones, assistant secretary to Commissioner of General Land Office, dated November 19, 1913, directing suspension of further issuance of patents to State for swamp lands.

It is to correct this error in the survey under the treaty of 1855, as well as to correct other errors in surveys, that provision is made in the draft of the bill submitted by the department for a resurvey.

In 1915-16 the General Council instructed its attorney to take this matter up with the department and secure final action. Petitions and briefs were filed with the department which resulted in the department taking the position, without formal decision being ren-

dered, that the patents issued to the State had been erroneously issued. Correspondence with the State ensued, the department endeavoring to secure an adjustment by the voluntary return of the ceded lands by the State. This the State refused to do, and then the department assumed the position of forcing the State to commence proceedings in court to compel the department to issue patents for the remaining lands applied for. This the State has failed to do. Within the last year a suit has been prepared by the Department of Justice affecting a part of the swamp lands on the White Earth Reservation patented to the State, in which suit it is sought to test the question. The filing of that suit has been deferred pending the enactment of a general jurisdictional bill that will put the entire question before the court for decision and thus clean up the entire controversy in one suit. In the jurisdictional bill provision is made for such a suit.

Mr. ELSTON. Wherein does your contention in regard to this swamp land differ from the ruling of the department?

Mr. BALLINGER. We are in accord upon that, but provision is contained in the bill under consideration for a reference of this matter to a court for final decision. The report of the department on the bill contains no reference to this matter, and I am calling it to your attention so that when you gentlemen take up the bill you may understand the matter.

Under the act of 1889 there were many mistakes made in the scaling of timber and the classification of the lands. Much land that was in fact pine land was classified as agricultural land, and I have the abstracts showing that the timber on those lands classed as agricultural lands later sold anywhere from \$1,000 to \$5,000 on the 160 acres, the timber rights alone, and yet that land was classified as agricultural land.

Mr. ELSTON. Is that the land that was sold to homesteaders?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. At \$1.25 per acre to homesteaders?

Mr. BALLINGER. Yes, sir; in the first instance the timber upon the land as shown by the official reports of the department and of Congress was scheduled as containing about one-third of the actual amount of timber that was subsequently found upon the land, and under the act of 1889 that was put up and sold in the tree standing. It is a singular coincidence that in most of those instances where the scaling of timber was grossly inadequate, where the reports show that there was three or four times the amount of timber stated in the governmental estimates, those tracts were the first tracts that were put up and sold. which indicates conclusively that the officers of the Government and the timbermen up there knew what tracts had been improperly scaled. As the result of the timber administration, about which I shall not go into detail, the Indians lost several millions of dollars, and these frauds were the primary, though not the instant cause, of the uprising by the Indians in 1898, and this insurrection among the Indians resulted in a committee of Congress going out there to investigate conditions. Investigations were also made by agents of the department. The departmental report appears in House Document No. 85, Fifty-fifth Con-

gress, first session, and shows the extent of the frauds that were perpetrated upon the Indians, and those reports resulted in a change in the manner of disposing of the timber as provided for in the act of 1889, by a provision included in the act of June 27, 1902, which authorized the sale of timber on bank scales instead of standing. Prior to the act of 1902 the Indians lost several millions of dollars of which amount, Mr. Chairman, it will be impossible for them ever to recover against the United States any considerable portion. And it was because of those losses and because of the erroneous surveys that were made that the Indians in the bill introduced by Congressman Ellsworth have asked Congress to stand the expense of the further administration of this estate. They can not hope ever to recover in a court because they can not get the clear proof of actual fraud sufficient to maintain their claim, and yet the reports of Congress and the reports of the department show conclusively that the Indians lost heavily in those transactions.

Mr. HASTINGS. What part of that Ellsworth bill gives Congress jurisdiction in the matter of checking that proposition?

Mr. BALLINGER. Section 2 provides:

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of the lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserve contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all merchantable timber on any such lands ceded to the United States in trust under said act of January 14, 1889, remaining undisposed of, including the timber on any and all of said lands belonging to the Chippewas and within the limits of any Indian reservation, said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform so far as practicable to the provisions of the act of June 27, 1902 (32 Stat. at L., p. 400): *Provided*, That nothing herein contained shall invalidate or impair any existing valid contract for the cutting or sale of any of said timber: *Provided further*, That where any such contract shall include the timber upon any land allotted under this act, the proceeds of the timber cut from any such allotted land, after the allotment is made, shall be paid to the allottees under the same conditions as other payments are made under this act.

The CHAIRMAN. Gentlemen, the time agreed upon to recess has arrived. We will recess until tomorrow morning at 10 o'clock.
(The committee thereupon adjourned.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 9, 1920.

The committee on this day met, Mr. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Will the committee come to order? We will resume the hearing and Mr. Ballinger will proceed with his argument.

Mr. BALLINGER. Mr. Chairman, yesterday I promised to submit a copy of the authorization under which I appear here. I now submit that together with the entire record of the general council relating to the authorization. I also have with me a certified copy of the records of the general council, and they can be compared if anyone so desires.

The CHAIRMAN. They will be inserted in the record at the proper place.

(The copy of the record referred to follows:)

MINUTES OF THE SEVENTH ANNUAL MEETING OF THE GENERAL COUNCIL OF MINNESOTA CHIPPEWAS HELD AT CASS LAKE, MINN., COMMENCING JULY 8, 1919.

* * * * *

RESOLUTION NO. 6.

Resolved by the Chippewa Indians of Minnesota in General Council assembled, That Webster Ballinger, attorney at law, of Washington, D. C., be, and he hereby is, appointed attorney of the general council for a period of one year with full authority to represent the general council and the committees thereof in all matters pertaining to the affairs of the Chippewa Indians of Minnesota, his compensation to be fixed by the executive committee of the general council, and to be paid, so far as practicable, out of the appropriation made for the support of the general council.

* * * * *

EVENING SESSION.

CASS LAKE, MINN., July 9, 1919.

Meeting called to order by the chairman, John W. Carl, in the Rex Theater, at 7.30 p. m.

* * * * *

Resolution No. 6 was again read as set out on page 12 of these minutes. After explanations made by Mr. Frank D. Beaulieu in reference to the resolution, Mr. J. A. Morrison moved to adopt the resolution as read. Motion seconded by a voice.

Mr. Cajune offered an amendment to resolution No. 6 that the executive committee be stricken from the resolution and in lieu thereof to empower the council to set the amount of the compensation of Webster Ballinger. The amendment was seconded by Mr. Paul Sheehy. A prolonged discussion followed, after which Mr. Cajune withdrew his amendment, also the second was withdrawn.

A vote on this resolution was taken by raising the right hand. Result of the vote was 64 to 1 in favor of the resolution.

Mr. Frank D. Beaulieu moves to reconsider the vote, seconded by John Laundry, and the motion carried by a vote of 63 to 4.

Mr. Frank D. Beaulieu demands ye-a-and-nay vote on resolution No. 6. Ye-a-and-nay vote was taken the result being:

Yea, 72; nay, 0.

* * * * *

Mr. BALLINGER. Mr. Chairman, during the course of my statement yesterday I probably did not make plain this act of 1904 directing or authorizing the disposition of 256,000 acres of land of the Red Lake Reservation, and, therefore, at this point I desire to submit a few observations. The inchoate agreement, so far as any record discloses, originated in the department.

The CHAIRMAN. What department?

Mr. BALLINGER. The Indian Office. A representative of the Indian Office went to the Red Lake Reservation and there negotiated this inchoate agreement which appears in full in 33 Statutes at Large, pages 46 and 27. That agreement was transmitted to Congress, and in the Indian appropriation bill approved March 3, 1903, 32 Statutes at Large, pages 1009-1010, it was embodied with modifications, the principal modification being a change in the language with reference to the disposition of the 256,000 acres of land ceded. This provision in the Indian appropriation bill concluded as follows:

Of the amount realized from the sale of said lands the sum of \$300,000 shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within 90 days after the sale herein provided for and the receipt by the United States of said sum from said sales, and the remainder of the proceeds of the sale of said lands shall be paid in cash, per capita, in 15 annual

installments, the first installment to be paid in the month of October of the year following that in which the payment of the \$300,000 is made.

In consideration of the Indians hereinafter referred to ratifying this act, the said Indians shall possess their diminished reservation independent of all other bands of Chippewa Indians, and shall be entitled to allotments thereon of 160 acres each of either agricultural or pine land, the different classes of land to be appropriated as equitably as possible among the allottees. And nothing in this act or its acceptance by said Indians shall be construed to deprive the said Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary, and with authority to continue making sales of said land until all of said land shall have been sold. The register and receiver shall receive the usual fees for making final proof under this act.

Provided, That nothing in this section contained shall in any manner bind the United States to purchase any portion of the land herein described, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received, as herein provided.

This act shall take effect and be in force from and after its ratification by the Red Lake and Pembina Bands of Chippewa Indians belonging on the Red Lake Indian Reservation, in the State of Minnesota, a majority of the male adults of said Indians assenting thereto, and the evidence thereof to be made by the proclamation of the President to the effect that this act has been duly ratified. And the Secretary of the Interior is hereby directed to submit this act to said Indians for ratification as early as is practicable.

The amended provision was submitted to the Indians and the Indians rejected it upon the stated ground that if the 256,000 acres were to be sold and disposed of as the other property of the Chippewa Indians ceded under the agreements of 1889 had been, the Indians would practically receive nothing for it, and they rejected the agreement on that ground, notwithstanding the benefits it attempted to confer upon the Red Lake Indians to the exclusion and at the expense of the great body of the Chippewa Indians of Minnesota, who were the real owners of the land to be ceded and who were not consulted. Then, Congress by the act approved February 20, 1904. (33 Stats., pp. 48 to 50, inclusive), reenacted the provision submitted to the Red Lakes and by them rejected as a law, with no provision for its resubmission to the Indians. It is true that the first portion, the first sentence, of that act recites "That said agreement be and the same is hereby modified and amended so as to read as follows": but when it was passed, it was passed as a law of Congress and not as an agreement. So with reference to the disposition of that land there was never any assent given by any band of the Chippewa Indians of Minnesota, not even the Red Lakes. And the same is true with reference to the act of May, 18, 1916.

Now, I want to make the further observation—yesterday I referred to the great timber frauds that had occurred in the administration of the timber lands in Minnesota. In fairness to the Indian Bureau I will state that the Indian Bureau had nothing whatever to do with those frauds. The sale and disposition of the timber land was under the administration of the Land Department of the Government.

Mr. HERNANDEZ. How did it come under the Land Department?

Mr. BALLINGER. In the administration of the agreements of 1889.

The CHAIRMAN. Did you have that information when you made the statement here yesterday?

Mr. BALLINGER. I did, and it was because I was hurrying over the matter, Mr. Chairman, that I failed to make that plain. I want to be fair with all the bureaus of the Government.

Now, Mr. Chairman, I come to the question of the disposition of the agricultural lands. The bill under consideration makes provision for the disposition of the remaining lands in a different way from that contained in the agreements of 1889, and I desire to disclose to the committee the necessity for the proposed changes. The agreements of 1889 provided that the agricultural lands should be disposed of to entrymen under the homestead laws of the United States. At that time, as every gentleman here who is familiar with the homestead laws of the country knows, they were very liberal in the acquisition of titles. Subsequent to the agreements of 1889 the homestead laws were made more stringent both in the administration and by positive law of Congress. So that at the present time it is difficult if not practically impossible for an entryman to comply with the requirements of the homestead laws with reference to much of the remaining lands. Much of it is swamp land. Some of it is covered with timber. It would be practically impossible for an entryman of ordinary means to go out there and drain the swamp land or pull the stumps at the enormous expense he would be put to with the uncertainty of ultimately acquiring title under the homestead laws. Prior to the issuance of patent the land can not be used as a basis of credit or loans to obtain money with which to put it in a tillable condition.

The CHAIRMAN. Do you mean to convey by that statement the thought that the restrictions were made drastic so that they could not enter?

Mr. BALLINGER. They could enter the land, but it would be difficult for entrymen of ordinary means to comply with the law.

The CHAIRMAN. What I am getting at is, do you mean to have us understand that those restrictions were made so drastic that the people would not enter the land?

Mr. BALLINGER. Yes, sir; that is true. That was a general law. A very considerable portion of this land is swamp land that needs draining, and it will require a very considerable expenditure before the land can be made profitable, and few entrymen have been willing to take the chance of laying out the money for development with the certainty of acquiring title from the United States by patent at a later date.

The CHAIRMAN. What is your idea as to what should be done to correct that situation?

Mr. BALLINGER. There is no difference of opinion between the general council and the department with reference to the disposition of the remaining land. This bill provides that the land shall be appraised at its true value, its market value, and put up and offered for sale and disposed of to the highest bidder at not less than the appraised value. Having acquired title by purchase, a man can then use the land as a basis of credit and develop it. Now, on May 20, 1908, there was passed a bill commonly known as the Volstead Act.

Under that law it was provided that all unentered and undisposed of public lands or lands subject to entry in the State of Minnesota, as well as lands upon which no final certificate had issued, should become subject to the drainage laws of the State. Now, under the

operation of the drainage laws of Minnesota, where parties desired to create a drainage district they applied to the court by proper petition. The court approved the drainage project and surveys were made and the initial work commenced. The expense immediately became a charge upon the land and the land was subject to sale the same as private land to meet this charge. The result is that much of this land has passed into private ownership.

The CHAIRMAN. Through tax sales?

Mr. BALLINGER. To meet the costs of surveys and other charges. Now, under the first law—that is, the law I have referred to as the Volstead Act, it was sold at public auction—that is, the charge certificates were sold at public action for whatever they would bring, and the holder, the buyer of the tax certificates, could then go to the receiver's office—that is, the public-land office—pay \$1.25 per acre for the land plus the little charge that had arisen and acquire title to the land, but the proceeds over and above the actual cost of making the surveys, or of whatever it was the cost arose from, went into the fund of the Indians, and there was no particular objection to that. But by the act of September 5, 1916 (39 Stats., 372), the original Volstead Act was changed so that only \$1.25 per acre from the sale of these ceded lands went into the Indian fund and the balance of it went into the State fund for general drainage purposes. The Indians think that this was manifestly unfair to them and that they were entitled to the full proceeds derived from the sale of the lands.

The CHAIRMAN. All the Chippewa Indians believed that?

Mr. BALLINGER. I do not think that there could be any difference of opinion among them.

The CHAIRMAN. There is no reason why we should discuss that here.

Mr. BALLINGER. I merely state that, Mr. Chairman, to show the methods that have been resorted to in order to get this land into private ownership where it could be utilized and developed, and it shows also the necessity now of putting the land up and selling it for its actual value and letting the Indians have the benefits of it instead of giving it to the State and the white people who are now getting it under the amended Volstead Act.

Mr. HERNANDEZ. They have not disposed of all of this swamp land yet?

Mr. BALLINGER. No; it is impossible for me to state the exact acreage that remains undisposed of, but there is a very large amount of it. Now, Mr. Chairman, although I have made diligent effort at the various departments and bureaus of the Government that have handled this estate, it has been impossible for me to obtain any accurate figures with reference to anything pertaining to the estate, except the amount of money that has actually been deposited in the Treasury of the United States and the amount actually paid out.

I now come to the question of schools among the Chippewas, and I want to devote a few moments of my time to calling your attention to what has gone on in the past. By the agreement of 1889, section 7, it was provided that one-fourth of the interest accruing annually on the principal fund should be used exclusively for the establishment and maintenance of a system of free schools amongst the Indians. Now, the words "free schools" at that time had a well-understood meaning. They meant the same kind of free schools

that we have in every State in the Union. What happened? The department, instead of establishing and maintaining a system of free schools, that is, day schools, contiguous to the Indians, established only a few such schools, and in lieu of free day schools established boarding schools. The boarding schools were inadequate to meet the requirements of all the children who were entitled to participate in this school fund. The result is that favoritism was shown. Some children received the benefits of the boarding schools to which they were sent and were boarded, clothed, fed, and housed at the expense of the tribe. The parents of other children were compelled to send them off to schools for their education at their own expense.

These boarding schools are still maintained among the Chippewas and the general council has protested against them and still protests against them and asks for their abolishment at the earliest practicable date; and this bill provides a method whereby as soon as public schools can be established to take care of all Indian children the boarding schools shall be wiped out of existence. In that connection I want to call the committee's attention to a matter that occurred only recently at Twin Lakes, on the White Earth Reservation. There is a building there, at one end of which is a Government school, and at the other end of it is a public school of the State. In the Government's end there are about 30 children in attendance. At the public-school end there are about 15 or 16 children in attendance. Mr. Fairbanks, a member of the general council, who has just returned from there, knew one of the boys that was going to the Government school and he asked the boy about the two schools, and the boy said if they wanted to learn they ought to go to the public school, but he said that most of them went to the Government school because there they gave them a free dinner in the middle of the day. Now, that has been the inducement, this thing of alms, feeding them, reaching them through their stomachs, at the expense of their mental and moral development.

The CHAIRMAN. Where is that school located?

Mr. BALLINGER. At Twin Lakes. I say to you, Mr. Chairman, that that Government school ought to be abolished to-morrow and the children ought to be put in the public school which is accessible to them at the other end of the building, and which has adequate school facilities.

The CHAIRMAN. A few moments ago when you started your remarks on this subject, you used the word "department."

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. What department do you mean?

Mr. BALLINGER. I mean the Indian Bureau.

The CHAIRMAN. Will you kindly try to use those words whenever you refer to the Indian Bureau?

Mr. BALLINGER. With the permission of the committee, when I come to look over my remarks I will make those changes.

The CHAIRMAN. It will be all right even now as you are going on, if you can do that.

Mr. BALLINGER. Now, Mr. Chairman, I want to refer to these boarding schools particularly. I have before me and hold in my hand the report of the Commissioner of Indian Affairs to the Secretary of the Interior for the fiscal year ending June 30, 1919. If any

member of the committee desires to check up on the statement I am going to make, there is the record to which I refer. The commissioner's report for the year ending June 30, 1919, shows, on page 162, that the Government maintained that year at Fond du Lac a school that had a capacity of 60, a total enrollment of 27, and an average attendance of 18 children; with one employee, page 208, who received \$1,600 per annum. Such a school has not existed for years. Mr. Chairman, this part of the report is pure fiction. The annual report of the commissioner for the year ending June 30, 1919, contains statements equally startling as the above. On page 208 the number of employees and the salaries paid in connection with the school service maintained among the Chippewas in Minnesota during that fiscal year are given, and on page 162 the number of children attending the separate day and boarding schools are also shown.

This report shows, on page 162, that a day school with an average attendance of seven children was maintained at Grand Portage. On page 208 the report shows that there were eight school employees, who received in salaries \$5,000 per annum. Eight employees for seven children. At the Leech Lake Reservation boarding school the average attendance was 34. This school maintained 12 employees, who received salaries aggregating \$8,500. At the Red Lake school the average attendance was 58. There were 25 employees, who received salaries aggregating \$17,630. I want to pause right here. My recollection is that Congress now allows for the support and education of the children in the Government schools \$275 per annum. Am I correct in that?

The CHAIRMAN. It depends upon the average attendance at the school, but I think it would easily cost \$275 for a school of that size and character.

Mr. BALLINGER. There was more money paid that year to the employees of the school at Red Lake than it cost to educate, feed, board, and clothe to a limited extent the children in Government nonreservation schools. At the Vermilion Lake Reservation boarding school there was an average attendance of 99 children, nearly twice the number at Red Lake, yet the number of school employees was only 15, who received aggregate salaries of \$9,840, or a little more than half the salaries paid to the teachers at Red Lake. An examination of every school maintained among the Chippewas shows that the salaries of employees alone, when considered in connection with the number of children attending each school, exceeded the total cost of maintaining the children in the Government nonreservation schools, as I have stated.

This was for salaries alone and did not take into consideration any of the other costs for food, clothing, fuel, and so on, which amounted to far more than the salaries of the employees, and more than twice as much in salaries of employees per child as it would cost to board, clothe, care for, and educate each child in the mission schools. Now, I want to pause here to say a word about two mission schools in that country. On the White Earth Reservation and on the Red Lake Reservation the Catholic Church maintains two mission schools. I am not a member of that church and I think that comparatively few members of the general council are members of that church, but, Mr. Chairman, those mission schools are the best

educational institutions to be found in that country. Those little sisters have performed wonders among the Chippewa children. They are taking the Chippewa Indian children at \$110 per year, feeding them, clothing them, and providing them with every essential necessary to life and to education; and yet the tribe is paying for the children in the departmental Government schools from \$275 to \$300 per year for employees alone. Now, Mr. Chairman, the figures I have given you with reference to the cost of employees at these boarding schools are from the report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919.

In that year there was a substantial reduction in the cost over previous years, and that cost of employees has no relation, please understand, to the cost of the agency employees. They are separate and distinct and in addition. Now, the bill as drafted by direction of the general council, and as agreed to by the Indian Bureau, will put an end to this condition. Provision is made to aid the State of Minnesota in the extension of the public-school system of that State to these Indians so that they will have proper school facilities at home. Last year, Mr. Chairman, at White Earth, the Indians in that country who are the taxpayers made great complaint against the general conditions, moral, educational, and almost everything pertaining to the Government boarding school then being maintained at that place, and last year the department surrendered the school building to the county and State authorities and they have at their own expense this year maintained for the first time one of the best schools in the State. It is now a public school maintained by the taxpayers. It was a heavy burden to throw upon them at first and they made application to the department for the allowance of a part of their interest money to aid the State authorities and the county authorities in putting the school upon its feet, but not a dollar were they able to obtain. The Indian appropriation bill, thanks to you gentlemen, this year contains an appropriation which will enable them to use a part of their school fund for this purpose.

The CHAIRMAN. I would like to ask you, Mr. Ballinger, as you seem to be well posted on Indian Service matters, what you think of this provision in the present appropriation bill, that is, the appropriation bill for 1920-21, which states:

Provided, That all reservation and nonreservation boarding schools with an average attendance of less than 45 and 80 pupils, respectively, shall be discontinued on or before the fiscal year 1921.

Mr. BALLINGER. I think it is a wise provision.

The CHAIRMAN. Well, will that have the effect of clearing up to some extent the situation you speak of?

Mr. BALLINGER. No; Mr. Chairman, it would not, because these are not reservation and nonreservation boarding schools maintained out of the Public Treasury, and I am apprehensive—

The CHAIRMAN. This, as I understand it, covers all schools, whether or not they are maintained out of the public funds.

Mr. BALLINGER. I hope it will obtain that construction, but from my experience I take it that it is going to be limited to schools maintained out of the Public Treasury.

The CHAIRMAN. If that is so, and it will be interpreted in that way, we want to serve notice that that will be corrected in the next bill.

Mr. MERITT. It will be construed so that the legislation will apply not only to gratuity appropriations, but to tribal funds.

The CHAIRMAN. I am very glad you will do that because that was the clear understanding of the committee.

Mr. MERITT. We are heartily in favor of it.

Mr. BALLINGER. Now, Mr. Chairman, I come to a provision that has to deal with the proposed legislation which is of greater importance to the Chippewa Indians of Minnesota than any other provision in the bill. It relates to those provisions of the bill which provide for the preparation of rolls of competent and incompetent Indians. For 30 years Congress has been making annual appropriations upon the basis of the entire membership of the Chippewa Tribe, namely, 12,000 Indians. In every justification transmitted by the department for the appropriations asked for will appear the total number of the Chippewa Indians of Minnesota—twelve thousand and some odd. Mr. Chairman and gentlemen of the committee, between 30 and 40 per cent of that membership has left the Chippewa country. They are scattered throughout the United States, taking their part with white men and making good in every walk and avenue and profession of life, and yet those men have been included in statements transmitted here as a basis for appropriations. Mr. Chairman, from 1890 down to the last year there has been an annual drag upon the trust funds of the Indians ranging from \$75,000 to \$185,000 per annum; and in my judgment, and in the judgment of the general council, that money, or at least 75 per cent of it, has been thrown away.

It has been worse than thrown away. It has been used in the employment of a vast horde of employees in that country who have deprived the Indians of their lawful rights. Instead of handing them that which the law commanded them to they withhold it from them. Let me give you an illustration. Under the agreement of 1899 it was provided that the interest money should be paid in cash to them. That little interest money aggregating about \$18 per capita per annum was not paid in cash to them, but accounts were opened on the books of the agencies and in the banks. In 1916 when the General Council commenced functioning they found little accounts up there ranging from \$1, 50 cents, and 5 cents up. I remember that I transmitted to the department one of the statements from the agents showing that the man had 5 cents to his credit. The administration of these little accounts cost the Chippewa Indians anywhere from \$20,000 to \$30,000 per annum, and that money was being withheld from them in absolute defiance of the law.

Mr. DALLINGER. You mean \$18 per capita?

Mr. BALLINGER. \$18 per head—per man, woman, and child. Now, Mr. Chairman, I want to be fair with the Indian Bureau about this. The General Council when it first entered its protest to the department received but scant recognition, but finally these matters got into the hands of Mr. Meritt, and I want to say that Mr. Meritt has, as far as he could, been eminently fair with us in dealing with these matters. Of course, when he ran into the question of the department policy his hands were tied, but in other respects he has been fair. As the result of the work of the General Council there was a division of one-fourth of the principal fund, amounting to \$130 per capita, that was paid out. That money was placed around in banks, and when an Indian wanted \$25, for instance, if he was living up ad

Grand Portage, out 75 miles from the agency, he made his application and the agent sent a man out from the agency, 40 to 75 miles, to make an investigation as to whether or not the man actually needed the \$25; and the cost of the investigation in most instances, I think I can correctly state, cost more than the man finally got.

The CHAIRMAN. What fund was that paid from?

Mr. BALLINGER. That money was paid out of the trust funds, out of appropriations made by Congress of \$185,000 per annum. The result was that when we finally got down to dealing with the Indian Bureau, and after they recognized the council about a year ago, orders were issued to pay these funds out, everything less than \$50 for the incompetent, and where the Indian had received his patent in fee to pay it all out to him. But even at the present time much of these funds still remain intact. Mr. Fairbanks, who is a member of the General Council—and I expect that Mr. Fairbanks in his business operations could employ a good portion of the Indian Bureau employees and pay them better salaries than they are now receiving—could not receive the funds or bonds of his little children, which are still being held by the agency and have not been turned over to him. Mr. Rogers, who is county attorney for Cass County and who looks after the legal affairs of the white people in that country—his bonds, the bonds of his little children, purchased out of their trust funds, had not, the last time I was advised, been turned over to him. I pause to inquire of Mr. Rogers if they have yet been turned over to him.

Mr. ROGERS. I had myself appointed as the legal guardian and the bonds were then turned over to me.

The CHAIRMAN. I would like to ask Mr. Rogers how long it has been since he began to try to get control of this fund.

Mr. ROGERS. The money for my children?

The CHAIRMAN. Yes.

Mr. ROGERS. About two years ago last summer.

The CHAIRMAN. And you just got it now?

Mr. ROGERS. I got it last year.

The CHAIRMAN. What time last year? I want to fix as nearly as I can the length of time it took you to get it.

Mr. ROGERS. It took about a year and six months.

Mr. HASTINGS. What degree of blood are the children? Are they full-blood children?

Mr. ROGERS. No, my children are mixed blood. There is no qualification as to whether they are full or three-quarters. I am just classed as a mixed blood.

Mr. HASTINGS. Was your father a white man?

Mr. ROGERS. My father was a white man.

The CHAIRMAN. Did the fact that you are a mixed blood militate against you in any way in getting control of the funds of your children?

Mr. ROGERS. No; I don't think so.

The CHAIRMAN. There was nothing in the law that prevented you from getting control of it on account of your being a mixed blood?

Mr. ROGERS. No.

Mr. BALLINGER. You received a patent in fee for your land?

Mr. ROGERS. Yes; I am a full-fledged citizen; I received a patent in fee.

Mr. HASTINGS. What was the amount of the bonds of your children?

Mr. ROGERS. Four hundred dollars.

Mr. BALLINGER. Was that the total?

Mr. ROGERS. I got \$400 in bonds, and I got \$130 in cash.

Mr. HASTINGS. How many children have you; I mean that have bonds?

Mr. ROGERS. Four. They each have a hundred-dollar bond.

The CHAIRMAN. Now, in order to get control of this fund, just what did you have to do?

Mr. ROGERS. Are you speaking to me?

The CHAIRMAN. Yes; I am speaking to you, Mr. Rogers.

Mr. ROGERS. Why, at first I took it up with the agent and he said that he had no authority to turn it over to me, and I personally took it up with Mr. Miller, whom I believe was on the Indian Committee at the time. He was in the House, anyhow. He might have taken it up with the department. They eventually wrote me stating that if I appeared before the court and had myself appointed guardian and gave a bond that they would then turn the bonds over to me, which I did. I had myself appointed guardian and I gave bond, and the bonds were eventually turned over to me, in addition to the \$130.

The CHAIRMAN. What was the nature of these bonds—Liberty bonds?

Mr. ROGERS. Liberty bonds.

The CHAIRMAN. And these bonds were purchased by the department with money that belonged to your children?

Mr. ROGERS. Yes, sir.

The CHAIRMAN. All right.

Mr. MERITT. Mr. Chairman, in order that the record may be clear I would like to have him state how long after he was appointed guardian this money was turned over to him.

The CHAIRMAN. That is fair. How long after you were appointed guardian of your children did it take you to come into possession of these funds?

Mr. ROGERS. Well, I don't exactly recollect now, but I think something like six months.

The CHAIRMAN. Something like six months?

Mr. ROGERS. Yes.

Mr. MERITT. Mr. Chairman, may I have the records looked up in that particular case and put it on the record?

The CHAIRMAN. Yes; I would be glad to have you in your statement give us any information you desire upon that particular matter.

Mr. BALLINGER. Now, Mr. Chairman, since that bond question has come up I want to make a statement in fairness to Mr. Meritt and also to the General Council. When they commenced investing the funds of the Indians in Government bonds, these little interest payments under the agreement of 1889 were to be used for their support and to be paid in cash to their parents. I filed a written objection with the department, explaining that I did not want it to be understood that any of the Indians were unpatriotic, but that these little sums could help the Government but little and that they would be needed by the Indians, many of them, in properly educating and caring for their children. The funds were, however,

invested in Government bonds contrary to law. Subsequent to the bureau's recognition of the General Council a little over a year ago I took the matter up with Mr. Meritt of the Indian Bureau, and an order was issued directing the delivery of the bonds to the parents in all cases where the parents had received patents in fee and to restricted parents where they would have themselves appointed legal guardians. We discovered then that in order to get a Government bond belonging to children of \$50 or \$100 in condition to be converted into cash it was necessary to go into court and incur an expense of anywhere from \$15 to \$30 in the appointment of a legal guardian. The department with the General Council thereafter worked out a scheme whereby the Government redeemed these bonds and paid the money over to the Indians. When the Indian wanted money for the bond he had to sell it at a discount of about 10 per cent. So that when it was finally converted, until this arrangement was worked out with the department, there was practically nothing left of a \$50 bond for the Indian. Mr. Meritt cooperated finally in that and we made a saving to these people easily of \$125,000 on the bonds alone.

Now, Mr. Chairman, I say without fear of contradiction that at least 85 to 90 per cent of the Chippewa Indians of Minnesota are competent to handle their own affairs, as competent as are the white people of the State, their neighbors. There are some up there who ought, in my judgment, to remain under some supervision. The old Indian can probably never be reformed. The young Indian, in my judgment, is probably better off if you will give him his money and throw him upon his own responsibility with notice that that is all he is going to get. If he squanders it in his younger days he has an opportunity to retrieve his lost fortune. If you do that with the old Indian and he squanders it he will then become a charge upon the State. For that reason I think it would be well to liberate the young Indian in almost every instance, but it would be best to hold on to the old Indian. And this bill in my judgment will work out a plan by which every Indian in that country will be liberated within a comparatively short time. Those who are found to be competent will be instantly liberated, and those who are found to be incompetent will receive their money, not at the whim and fancy of some Government officer and after costly inquiry, but in regular annual payments for a series of years. The same plan has been tried among the Kaw Indians and worked admirably. That feature of the bill was taken from the law drafted by Senator Curtis.

MR. HASTINGS. I am not familiar with the provisions of this bill, but does it provide for the appointment of a commission to pass upon the competency of the Chippewa Indians?

MR. BALLINGER. Yes.

MR. HASTINGS. Is final authority given to that commission?

MR. BALLINGER. Yes, sir.

MR. HASTINGS. The commission does not have to report to the Interior Department? The finding of the commission in that respect does not require the approval of the department?

MR. BALLINGER. Mr. Hastings, that commission is to be composed of three men, one to be appointed by the President, one by the Secretary of the Interior, and one by the General Council so that the

Chippewa Indians themselves may have recognition on the commission, which, in my judgment:—

Mr. HASTINGS. I am in hearty sympathy with the Indians having recognition on the commission.

The CHAIRMAN. Proceed.

Mr. BALLINGER. Now, Mr. Chairman, you have heard a great deal about the great land frauds in Minnesota, and probably when this bill comes up there will be some reference made thereto upon the floor. Now, I want to say a few words with reference to that situation. In 1906, by the act of June 21, 1906, 34 Stats., 325, at page 353, there was inserted a provision which I want to read:

That all restrictions as to sale, incumbrance, or taxation for allotments within the White Earth Reservation in the State of Minnesota, now or hereafter held by adult mixed-blood Indians, are hereby removed, and the trust deeds heretofore or hereafter executed by the department for such allotments are hereby declared to pass the title in fee simple, or such mixed-bloods upon application shall be entitled to receive a patent in fee simple for such allotments; and as to full bloods, said restrictions shall be removed when the Secretary of the Interior is satisfied that said adult full-blood Indians are competent to handle their own affairs, and in such case the Secretary of the Interior shall issue to such Indian allottee a patent in fee simple upon application.

Observe that that law automatically removes the restrictions upon all mixed blood adults. The department, that is, the Indian Bureau, disclaims authorship of that provision, and claims that that was inserted by Congress, that is, in Congress. At any rate, Mr. Chairman, the Indian Bureau was apprised of the legislation. It was inserted as an amendment in the Senate, and the Indian Bureau at least ought to have known the consequence that would follow that legislation, for the Senators and Congressmen are not supposed to be thoroughly familiar with the condition of rolls in the possession of the Indian Bureau. At that time, Mr. Chairman, there was no roll in existence showing the mixed bloods and the full bloods. In the preparation of rolls under the agreement of 1889 they were enrolled merely as members of the tribe and membership did not depend upon the quantum of blood; so that when that law was passed the only way a purchaser of land could ascertain whether or not a man was a full blood or mixed blood was from his physical appearance the general repute in which he was held and from the evidence the man offered to the purchaser. The Indians appeal to the white men in that country to buy their lands, gave them affidavits of themselves and members of their families that they were in fact mixed bloods, and they had been so recognized in that country as mixed bloods for years. White men bought the title, believing it to be good.

There was considerable of that land sold for less than its actual value, but at that time, remember, there was a large area of land in that country that was open to purchase, and land then was cheap as compared with the present time. After these sales had been made, and the Indians had sold their lands, representatives of the department went out into that country and claimed, first, that the words "mixed blood" meant only persons of less than half blood, and then, second, that many Indians who signed these affidavits were in fact full bloods. I will say to the chairman of the committee that the best information I can obtain is that there is not a full-blood Indian in the State of Minnesota. They have been mixed up with the white citizens in that country—French traders, and other white people—for more than 100 years, so that there is not a full-blood Indian in the

State of Minnesota to-day. The result was that innumerable suits were filed in the name of the United States throwing a cloud upon the title of practically every Indian allotment in that country, frightening purchasers away. Those suits were not brought to trial. By the act of June 30, 1913 (38 Stats., 88), provision was made for the appointment of a commission to take up the cases in the courts and to classify those Indians and make a roll showing the mixed bloods and the full bloods. That commission has now about finished its work. The result is that through the instrumentality of that commission men have been compelled to come in and make settlements with the Government upon the basis of the present valuation, in many instances, of the land, and then after the settlement was made the Indian has been listed as a mixed blood.

The court never had jurisdiction of the case of a mixed blood, and yet through the instrumentality of the Government agents the purchasers of that land, having made a valid purchase in the first instance as the seller is now classified as a mixed blood, has been held up and compelled to come in and make further payment. There are only comparatively few listed as full bloods. I think on the entire White Earth Reservation, where about 7,000 Indians were allotted, that your roll will contain less than 600 names of full bloods, and yet settlements have been obtained from a far greater number. The Government boasts of the fact that it has made a recovery for the Indians of some million, or a million and a half of dollars. In most instances the recovery was improper, but if it was proper those suits have cost the Indians in that country five times the amount of the recovery by the depreciation of everything that touched Indian land or pertained to it because, no one would buy it, and to-day people are afraid of Indian titles in that country. Now, that is, Mr. Chairman, the story of the great land frauds. If rolls had been made before that law became operative, classifying the Indians into full and mixed blood status, and those rolls had been made conclusive, no fraud could have occurred. We would never have heard of them.

This bill that you have before you takes this precaution, and in addition to the rolls it provides that the acknowledgment of a deed from an Indian shall be before a court of record and not before a mere notary public or some irresponsible individual. I want to say to you that the bill as presented here represents the most careful thought of the members of the General Council of the Chippewa Indians. They stand equal to the white people of Minnesota. There are men on that General Council who, as business men, as practical men, as lawyers, rank among the best in Minnesota, and whose integrity is universally acknowledged. Now, provision is made also in the bill for completion of the allotments to the Indians. The commission created under the act of 1889 ceased to function in 1901. It got into a row with the then Secretary Hitchcock and he tried to abolish them. He at least put them out of commission, and the result was that by the act of June 22, 1902 (32 Stats., 400, at p. 404, sec. 5), the work of completing the allotments was turned over to the department, but there never has been any authority conferred upon the department, although such authority has been exercised, to enroll or add the name of a single person to those rolls. Some of them have been added and the general council think properly added, but they are illegally on there because there was no authority vested in

the Secretary to put them there. This bill will validate those enrollments and relieve the Government of the United States of any possible claim that might arise therefrom.

Now, Mr. Chairman, for 31 years the funds of those Indians have been appropriated by Congress, and the general council has taken the position, at least since 1916, that Congress ought not to have appropriated the funds, their trust funds, to defray the Indian Bureau expenses in Minnesota. In the first place, Mr. Chairman, in 1889, when this agreement was entered into and for years theretofore the Government had maintained two agencies, one agency and a sub-agency, in that country—the agency at White Earth Reservation, and the subagency at Red Lake Reservation. The cost of support and civilization, including pay of Government employees prior to 1889, when these Indians were supposed to be uncivilized, was less than \$29,000 per annum, including the school funds, and all was paid for out of the Public Treasury. Every dollar that went to an Indian agent and for the agency employees in that country prior to 1889 came out of the Public Treasury of the United States.

The CHAIRMAN. Before that period what source of income did the Minnesota Chippewa Indians have?

Mr. BALLINGER. Up to 1889 a great many of them were farmers, just as they are now, and they worked in logging camps and in various mills and on farms around throughout that country.

The CHAIRMAN. Just as they are doing now.

Mr. BALLINGER. Just as they are doing now, and they themselves at that time were independent and self-supporting, the great majority of them. Now, Mr. Chairman, if it had been the intention of Congress or of the Government to have imposed upon the tribe the cost of maintaining their agents it should have so provided in the act of 1889. These agents were in fact not maintained for the benefit of the Indians. The agency system was built up years ago, back in the early days, for the protection of the whites, and it was forced upon the Indians. No Indian tribe ever asked for an Indian agent. It was forced upon them by the Government for the Government's protection and to keep the Indian in quietude—I was going to say in subjugation. Therefore, Mr. Chairman, if it had been the intention of either the Government or the Indians when the agreement of 1889 was signed that their trust funds were to be used in paying the salaries of the United States employees in that country, express provision must have been written into the agreement. That is the universal rule of construction. Now, what happened? The United States never set up a claim until 1910 or 1911 that these funds could be used for such a purpose. The appropriations theretofore were for specific purposes—the appropriations theretofore out of their trust funds or made reimbursable out of their trust funds, were specific, namely, for the work of administration of the estate. Yet, Mr. Chairman, prior to 1910 and 1911 the funds were used by the Indian Bureau and the department for these agency expenses. The money was diverted from the purposes for which it was appropriated and used for these agency expenses.

The CHAIRMAN. Thirty-one years ago, this time that you are referring to, did the Minnesota Chippewas have a correlated fund at that time? Did they have any treasury fund of their own, in their own possession or in the possession of the Government?

Mr. BALLINGER. No, sir; they did not; but if it had been the intention of Congress to pay the agency expenses out of their funds they would have appropriated it that way in the first instance and made it reimbursable.

The CHAIRMAN. But we must not get away from the fact that these Indians had no administration; and during this Indian Bureau's administration, whether it was good or bad, they have accumulated a fund.

Mr. BALLINGER. Yes, sir; but remember that fund began to accumulate in 1896, and between 1896 and 1911 Congress never touched it for that purpose. Then there was no authorization from Congress, and yet the funds were diverted from the purpose for which they were appropriated. Now, Mr. Chairman, the claim is made that you can use, take those funds and use them under this provision appearing in section 7 of the act of January 14, 1889, as ratified by the Indians:

"Provided, That Congress may in its discretion from time to time, during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per centum thereof."

Now, remember that in the first portion of section 7 it was expressly provided that all of the money shall be paid to the Indians, and this was the exception. Now, when the agreement was submitted to the Indians they asked what that meant, and this is what the commissioners told them: "That this fund was to be encroached upon only in the event of failure of crops or any other unforeseen misfortune." I quote from H. Doc. No. 247, Fifty-first Congress, first session, page 88. Now, Mr. Chairman, on the very face of that proviso it is plain that neither the Government nor the Indians intended that this should be a continuous annual performance, for it says that Congress may in its discretion from time to time use it. If it contemplated annual incursions upon the funds it would have been so stated, but the language itself excludes that construction.

The CHAIRMAN. What is the interpretation of that language—"from time to time?"

Mr. BALLINGER. The interpretation of it would be, that the Indians would be bound by the interpretation of this language, as given to the Indians and upon which interpretation they acted. That is the universal construction.

The CHAIRMAN. From time to time in one year, or from time to time in a period of years?

Mr. BALLINGER. Mr. Chairman, it would mean exactly what was within the minds of the parties, the intention of the parties.

The CHAIRMAN. Of course, the intention of the parties. That is what I am trying to get at.

Mr. BALLINGER. Precisely, it would mean what was within the minds of the parties, the intention of the parties. The object and purpose of that was to meet unforeseen contingencies that might arise. That was the object of it.

The CHAIRMAN. Then you maintain that all this money appropriated for the benefit of the Indians of their funds by Congress will eventually be put into a claim against the Government?

Mr. BALLINGER. Mr. Chairman, this bill puts it into a claim against the Government and refers the matter to the Court of Claims. When

you refer to this money that has been appropriated for the benefit of the Indians, the position of the general council is that while Congress intended that it should be for the benefit of the Indians it has never been used for their benefit. The Government employees in Minnesota have received the real benefits. Upon this point, Mr. Chairman, I will ask that this typewritten statement be included in my remarks.

The CHAIRMAN. It is so ordered.

(The said legal analysis follows:)

USE OF THE TRUST FUNDS FOR ALLEGED "SUPPORT AND CIVILIZATION."

Since about the year 1895 the Indian Bureau has been using the trust funds of the Chippewa Indians of Minnesota in paying the salaries and expenses of maintaining its regular agency employees. This was done prior to 1911 without any vestige of authority of law, and since 1911 under color of congressional authorization.

Prior to the act of January 14, 1889, the United States maintained an agency for the Chippewa Indians of Minnesota at White Earth, and a subagency at Red Lake. By reference to the Indian appropriation bill approved June 29, 1888 (25 Stat., 217) it will be observed that the following appropriations were made for the support of the agent and for the support and civilization of all the Chippewa Indians of Minnesota:

At page 218. "For pay of 58 agents of Indian Affairs at the following-named agencies, at the rate respectively indicated: * * * at the White Earth Agency, at \$1,600."

At page 230. "For support and civilization of Chippewas of Red Lake and Pembina Tribes of Chippewas, and for pay of employees, \$10,000."

At page 230. "Support of Chippewas on White Earth Reservation: * * * \$10,000."

At page 220. "For the support of a school or schools upon said reservation, during the pleasure of the President, in accordance with third article of the treaty of March 19, 1867 (vol. 16, p. 720), \$4,000."

This bill also carried numerous large lump-sum appropriations, of which the following, appearing at page 235, is a sample:

At page 235. "For support of Indian day and industrial schools, and for other educational purposes not hereinafter provided for, \$685,000. * * *."

Like appropriations had been carried in the Indian bills for years theretofore. It will be observed that in 1888 the United States paid out of the Public Treasury the salary of the agent at White Earth and appropriated \$20,000 for the support and civilization of all the Chippewa Indians in Minnesota and the pay of all employees. In addition to this it appropriated under article 3 of the treaty of March 19, 1867, \$4,000 for a school for the Indian children, and out of the lump-sum appropriations made for educational purposes an allotment of a few thousand dollars was made yearly for schools for the Chippewa children. The agency at White Earth, like other Indian agencies, was established not so much for the benefit of the Indians as for the protection of the white population, and was in pursuance of a governmental policy forced upon the Indians which the Government of the United States recognized as its policy and properly maintainable by the United States out of the Public Treasury.

The act of January 14, 1889, section 7, expressly provided that the proceeds derived from the sale and disposition of the ceded property should be placed in the Treasury of the United States to the credit of the Indians and should be paid to the Indians, principal and interest. That section contained this proviso:

"Provided, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof."

It is plain from a consideration of section 7 that neither the United States nor the Indians had in contemplation the use of any of the trust funds in defraying any of the regular agency expenses. The proviso never contemplated a regular annual appropriation for it provides "that Congress may, in its discretion, from time to time, * * * appropriate, for the purpose of promoting civilization and self-support among said Indians, a portion of said principal sum."

The words "from time to time" negative the idea that the appropriations were to be continuous and annual. When the act of January 14, 1889, was submitted to the Indians for ratification before it could become a law, the commissioners, representing the United States, explained the above-quoted proviso to the Indians and stated to them that it meant only that Congress might encroach upon the principal fund in the

event of failure of crops or any other unforeseen misfortune. (H. Doc. No. 247, Fifty-first Cong., 1st sess., p. 88.)

This explanation given by the commissioners, representing the United States; the Indians accepted and acted upon and the explanation, therefore, controls the construction to be placed upon the proviso and is binding upon the United States. (*Minnesota v. Hitchcock*, 185 U. S., pp. 395-6; *U. S. v. Mille Lac Band of Chippewa Indians*, 229 U. S. at pp. 509-10.)

That the United States did not consider that any of the trust funds of the Indians could be used for agency purposes is evidenced by the fact that regular annual appropriations were made for 20 years after the agreement of 1889 was signed for the pay of the agent and agency employees out of the Public Treasury, as will appear from an examination of the following acts:

- Act approved August 19, 1890 (26 Stat., 336, 337, 339, 351).
- Act approved March 3, 1891 (26 Stat., 989, 990, 992, 1004).
- Act approved July 13, 1892 (27 Stat., 120, 122, 123, 134).
- Act approved March 3, 1893 (27 Stat., 612, 613, 615, 627).
- Act approved August 15, 1894 (28 Stat., 286, 288, 289, 302).
- Act approved March 2, 1895 (28 Stat., 876, 878, 880, 891).
- Act approved June 10, 1896 (29 Stat., 331, 333, 335, 336).
- Act approved June 7, 1897 (30 Stat., 62, 64, 66, 77).
- Act approved July 1, 1898 (30 Stat., 571, 573, 575, 584-585).
- Act approved March 1, 1899 (30 Stat., 924, 925, 926, 928, 937).
- Act approved March 3, 1901 (31 Stat., 1058).
- Act approved May 27, 1902 (32 Stat., 245-246).
- Act approved March 3, 1903 (32 Stat., 982).
- Act approved April 21, 1904 (33 Stat., 189).
- Act approved March 3, 1905 (33 Stat., 1048).
- Act approved June 21, 1906 (34 Stat., 325).
- Act approved March 1, 1907 (34 Stat., 1015).
- Act approved April 30, 1908 (35 Stat., 70).
- Act approved March 3, 1909 (35 Stat., 781).

In 1900 lump-sum appropriations were made in lieu of specific appropriations for the separate reservations throughout the country, but each bill down to the one of March 3, 1909, contained specific appropriations for the pay of the agents or superintendents among the Chippewas out of the public funds. Every appropriation bill enacted from August, 1890 (26 Stat., 336, 351), down to and including the year 1909 contained the following item varying only in the amount appropriated:

"To enable the Secretary of the Interior to carry out an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, and for other purposes,' approved January 14, 1889, as follows: For the purpose of erection of houses for Indians and saw and flour mills; agricultural implements, stock and seeds, breaking and fencing land; for payment of expenses of delegation of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools; and for subsistence and pay of employees, \$100,000; and for surveys, appraisals, removals, and allotments, \$100,000; in all, \$200,000, of which amount \$7,500, or so much thereof as may be necessary, may be used for the employment of additional clerical force in the office of the surveyor-general of Minnesota, on account of such surveys: *Provided*, That the amounts shall be reimbursed to the United States from the proceeds of sales of land ceded by the Chippewa Indians under the act of January 14, 1889. And the Secretary of the Interior shall make a full and detailed report of his doings hereunder to the first session of the Fifty-second Congress."

Under these appropriations not a dollar of this money could be used lawfully for the pay of agents or agency employees, yet a substantial proportion of it was, in defiance of law, used by the Indian Bureau in addition to the regular appropriation for agency employees and only a part of it used for the purposes for which it was appropriated. In 1910 the United States was reimbursed from the trust fund for all moneys appropriated from the Public Treasury and made reimbursable, and in the act of March 3, 1911 (36 Stat., 1058 at 1065), appeared for the first time this provision:

That the Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of \$165,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Chippewa

Indians of the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act.

Only an insignificant amount of this appropriation of \$165,000 went to the Indians, less than \$8,000 being expended that year for their benefit, the remaining \$157,000 being used for agency and kindred expenses. From 1911 to the present day the annual appropriations, ranging as high as \$185,000, have been used for similar purposes. Agencies have been maintained at Fond du Lac, Grand Portage, Leech Lake, and Nett Lake, in violation of law and the trust funds of these Indians, amounting to hundreds of thousands of dollars used in the maintenance of these agencies. Reservations have been maintained at each of the above-named places in violation of law, and the expenses of maintaining the reservations have been paid from the trust funds. When the Chippewa Indians have sought to obtain the opinion of the law officers of the Government as to the validity of these appropriations and expenditures, both the department and Indian Bureau have refused to permit the matter to be referred to the judicial officers for an opinion as will appear from the correspondence heretofore included in the record.

Now, Mr. Chairman, I may add also that the right of the Government to use these funds is also one of the questions that the General Council asked the department to refer to its legal officer for an opinion, at least for the guidance of the department in making requests for appropriations, and the department refused even to submit that question to its own legal officer. In my judgment the reason for their refusal to submit the question was that it was so plain that they would of necessity have received an opinion to the effect that the funds could not properly be used. That request was made, Mr. Chairman, immediately following the submission of another question to the solicitor, in which the solicitor had reversed the Indian Bureau. The Indian Bureau had issued orders to strike the names of a large number of minor Chippewa children from the tribal rolls, on the ground that those children had been born or were residing off of the Indian reservation or off the allotted lands of their parents. Their names were stricken from the rolls, and orders were issued to return any funds that had been segregated to their credit in the Treasury of the United States. The General Council instructed me to take that matter up and, if necessary, to go to the courts with it. I asked the department to refer the matter to the solicitor of the department, which was done, and the solicitor rendered a very carefully prepared opinion, in which he deals with the nature of this trust, and directed the restoration to the rolls of those minor children.

Mr. HASTINGS. Will the department follow the opinion of the solicitor?

Mr. BALLINGER. Yes, sir.

Mr. HASTINGS. Then you have no complaint on that?

Mr. BALLINGER. Not at all. I merely referred to that as the probable reason why my subsequent request to have the question referred to the solicitor was denied. In my judgment the previous reversal of the Indian Bureau by the solicitor was one of the reasons why it was denied.

Now, Mr. Chairman, the question has been raised here with reference to the power of Congress to dissolve this trust, to terminate this trust, and to divide these funds in advance of the 50-year period provided for in section 7 of the agreement of 1889. That is a matter, when I first looked into it, caused me some annoyance, but after a careful consideration of it, I do not think there is any question about the power of Congress with the assent of the Indians to dissolve this trust at this time. This bill before you, if enacted into law, will dissolve this trust before the expiration of the 50-year period. Section 7 of the act of 1889, as agreed to by the Indians, provides for the sale and disposition of all the ceded property, and the deposit of the proceeds in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota. The fund was to bear interest at the rate of 5 per cent per annum, and was to be held as a trust fund for a period of 50 years after all the property had been sold and all the allotments made.

The question has been raised as to the power of Congress to dissolve the trust before the expiration of the time specified. Ordinarily such a trust could not be changed, altered, or modified by either the creator, the trustee, the cestui que trust, or the court, except with the consent of all the beneficiaries. But this rule does not apply in a case in which unforeseen conditions have arisen which prevent the execution of the trust as the creators intended it should be executed. Such is the case here. Both the Government and the Indians contemplated the sale and disposition of the property and the completion of the allotments in a few years after the agreement of 1889 was entered into. Then the trust period of 50 years commenced to run. Thirty-one years have now passed, and the allotments have not been completed, nor has the property been sold. The trust period of 50 years has not yet commenced to run. The trustee in, violation of the terms of the trust, has diverted the property to other and different uses than was provided for by the trust. This must now be recovered by resort to the courts, and when recovered must be sold. If it should now be attempted to execute the trust in accordance with its terms, the fund would be paid to other and different generations than those in the minds of the Government and the Indians when the agreement of 1889 was entered into.

The Indians are fast scattering throughout the United States and the world. It is impracticable to continue the trust for a period of 50 years after the allotments are completed, and the property is all sold. To do so would be to deprive the Indians who would have taken the property had the trust been administered in accordance with its plain terms of their property and would pass the property on to succeeding generations. Public policy has decreed the dissolution of these tribal governments and the winding up of the estates. The present expense of administering this trust is prohibitive. If the costly administration of the past should continue, there would be no fund to divide in 50 years. Under such circumstances it is legal, just, and proper to all parties concerned to take such steps as will effectuate as nearly as possible the intention of the parties to the agreement of 1889. (*Sears v. Choate*, 146 Mass., 395.) This can be done by the consent of the United States and the Indians to the distribution of the funds among the present generation. Only 19 years would remain, if the trust had been administered as it should

have been. To defer distribution for 60 or 75 years more would be to deprive the very persons for whose benefit the trust was created of its fruits and benefits. Therefore, as the mistakes that have been made can never be righted, the nearest that can be done is to approximate the intention of the creators of the trust.

This was recognized by Congress in the act of May 18, 1916, which directed the distribution of one-fourth of the principal fund and which was distributed. This act on the part of the Federal Government may have created a liability, because the consent of the Indians was never obtained. By now obtaining their consent to the distribution of the funds no liability can arise and the fund will be distributed at approximately the time the parties to the agreement creating the trust intended.

MR. HASTINGS. Has anybody taken a contrary view? Did the Indians?

MR. BALLINGER. No, sir.

MR. HASTINGS. Does the department?

MR. BALLINGER. No, sir.

MR. CARTER. That question of the power of Congress to do it has not been raised at all.

THE CHAIRMAN. It has been brought out here in the investigation between the parties at issue that the department and the various members of the Chippewas of Minnesota agreed to about 75 per cent of the matters involved—I think it was said to be about two-thirds. Of course, they are dealing not only with the things involved in the dispute, but are discussing to some extent the things which have been agreed upon. It may be a good plan, Mr. Ballinger, as you go along further when you come to an undisputed point just to say that you are merely giving us information in regard to it, but that the matter is undisputed.

MR. CARTER. The question, Mr. Chairman, of the power of Congress to deal with the agreement has never been disputed, but that point has never been raised at all. The only point raised was the moral obligation of Congress to carry out the agreement with the Indians, and the fact that those who succeed, who will be born hereafter, who are living at the end of this 50-year period, might, and perhaps will, come in with a claim against the Government for their pro rata share of this property, and upon that showing would have very good grounds at least to send it to the Court of Claims.

THE CHAIRMAN. But as I understand this proposition as it exists to-day, the 50-year period has never commenced, because no part of the agreement has been put into effect, and until things occur the 50-year period does not begin to run, and if it goes on as it has been there will never be an end to the 50-year period.

MR. BALLINGER. There will never be a commencement of the 50-year period until all the property is sold and the allotments are made.

THE CHAIRMAN. That agreement has been in existence 31 years.

MR. DALLINGER. Mr. Chairman, Mr. Ballinger said he thought he ought to get through to-day.

THE CHAIRMAN. Yes.

MR. DALLINGER. Now, then, I hope before he concludes, for the sake of clearness, that he will take up this bill, this committee print,

and just point out the things in contention between himself and the bureau.

The CHAIRMAN. I think that is a very good idea, but I do not want to limit Mr. Ballinger.

Mr. DALLINGER. Yes, I would rather that he would have more time to do that, too.

The CHAIRMAN. Yes, so that he can give us all the information that he has in the matter, and if he can not finish to-day I want to give him more time.

Mr. DALLINGER. Yes, I should think so, too, but my point is that I should like to have him give that information before he finishes.

The CHAIRMAN. But there is so much of it that he will necessarily have to be very concise with it or he will not get through this week.

Mr. BALLINGER. I hope I will, Mr. Chairman. There is a difference between the general council and the department with reference to the manner in which these funds can be divided. The position of the general council is that that can not be legally done without the consent of the Indians. The position of the department is that it is within the plenary power of Congress to divide the fund as it sees fit, and to do with it as it sees fit. That is one of the fundamental differences between the department and the Indians. It arose out of this fact, that for a series of years the Indian Bureau has been transmitting proposed legislation to Congress, taking the very vitals out of the trust created by the act of 1889, and has succeeded in obtaining the enactment of a part of that legislation.

Now, the department does not want to concede that the Indians should be consulted and shall have the right to say whether the agreement of 1889 shall or shall not be carried into effect. That is the real reason for the difference between the Indians and the department. Upon that point I again refer to the decision of the Supreme Court of the United States in the case of Minnesota against Hitchcock, reported in One hundred and eighty-fifth United States Reports. That decision was rendered two years prior to the decision in the case of Lone Wolf against Hitchcock, to which reference has been made, and in that decision the Supreme Court of the United States lays down clearly and concisely the nature of this trust and points out that the terms fastened upon the trust property by the agreement of 1889 can not be changed to the detriment of the Indians. Following that comes the decision in the Mille Lac case reported in Two hundred and twenty-ninth United States Reports. In that decision the distinction between this trust estate and the estate dealt with in the Lone Wolf case is clearly pointed out. I am going to take the time of the committee just for a moment to call your attention to it, because I feel certain that the particular nature of this trust estate has not been inquired into.

Mr. HASTINGS. I may agree with you as to Congress not having the moral right, and the Government not having the moral right, but I want to say that I have read nearly all the decisions of the Supreme Court of the United States on Indian questions, and I believe that they hold, as was held in the Lone Wolf case, decided in the One hundred and eighty-seventh United States Reports, that the Congress of the United States has the legal right to administer this trust

in the interest of the Indians and, as the Congress of the United States might decide, not taking anything away from them, but being careful to give to the Indians all of their property, I think that that is clearly decided in the One hundred and eighty-seventh United States Reports in the Lone Wolf case and in subsequent cases. If you have any cases to the contrary I have an open mind upon it.

MR. CARTER. You mean that they have the right to do that without any reference to any agreement at all with the Indians?

MR. HASTINGS. An agreement is no more than an act of Congress, and Congress has the right—I do not mean the moral right, but it has the legal right—to repeal trusts, to repeal agreements. Congress has no right to take property away, but to administer, to make rolls and to close the rolls, to say when those rolls shall be closed; I may not agree with that as a moral proposition; perhaps Congress ought not to do that, but as a legal proposition I contend that that has been decided by the Supreme Court of the United States time after time and, so far as I know, they never have decided to the contrary.

MR. BALLINGER. There is but little difference between myself and Mr. Hastings, except that the Lone Wolf case goes a little further than the statement that Mr. Hastings made, as I recall it, and the decision that I am now going to quote from will fully sustain the position just taken by Mr. Hastings, except that it goes a step further, in my judgment. Now, I read from the decision, the latter part of the decision in the case of the Mille Lac Indians *v.* the United States (229 U. S.). I may state briefly the question involved in that case. The Mille Lac Reservation was one of the reservations ceded to the United States under the agreement of 1889. Congress instead of disposing of the property on the Mille Lac Reservation, as the agreement of 1889 provided, passed two resolutions providing for its disposition under the homestead laws of the United States and under the preemption laws of the United States, diverting it from the purpose and intent of the agreement of 1889. Suit was brought to recover the value of that land from the United States. Not a dollar of the proceeds ever went into their trust funds. Now, I want to say in that connection that the Red Lake Indians, who are claiming the Red Lake Reservation exclusively, took their share of the judgment obtained in that case, and are participating, as are all the other Indians, in the division of the judgment from the Mille Lac lands. In the concluding portion of that decision the court says this:

As respects other lands in that tract—that is, such as were not within the terms of the proviso—we are of opinion that they came within the general provisions of the act, and were to be disposed of thereunder for the benefit of the Indians, in like manner as were the ceded lands in the other reservations, of which it was said in *Minnesota v. Hitchcock* (185 U. S., 373, 394): "The cession was not to the United States absolutely, but in trust. It was a cession of all of the unallotted lands. The trust was to be executed by the sale of the ceded lands and a deposit of the proceeds in the Treasury of the United States to the credit of the Indians, such sum to draw interest at 5 per cent."

As above stated, the lands not within the proviso were disposed of, not under the act of 1889, but under the general land laws; not for the benefit of the Indians, but in disregard of their rights. This was clearly in violation of the trust before described, and the Indians are entitled to recover for the resulting loss. In principle it is as if the lands had been disposed of conformably to the act of 1889, and the net proceeds placed in the trust fund created by it, and the Government then had used the money.

not for the benefit of the Indians, but for some wholly different purpose. That the wrongful disposal was in obedience to directions given in two resolutions of Congress does not make it any the less a violation of the trust. The resolutions, unlike the legislation sustained in *Cherokee Nation v. Hitchcock* (187 U. S., 294, 307), and *Lone Wolf v. Hitchcock* (187 U. S., 553, 564, 568), were not adopted in the exercise of the administrative power of Congress over the property and affairs of dependent Indian wards, but were intended to assert, and did assert, an unqualified power of disposal over the lands as the absolute property of the Government. Doubtless this was because there was a misapprehension of the true relation of the Government to the lands, but that does not alter the result.

Mr. CARTER. Was this a suit to recover for the wrong that had been done the Indians?

Mr. BALLINGER. Yes, sir.

Mr. CARTER. I think that is in exact conformity with Mr. Hastings's statement. None of those homestead allotments had been canceled. The Indians sought not to have the homestead allotments canceled, but sought to be paid for that land that was taken in that way. I think that conforms exactly to Mr. Hastings's statement that Congress had the power under the decisions to do as it pleased with this tribal property, but just as I have stated several times in the past, that may result in a suit being brought by the Indians for recovery for the wrong that has been done.

Mr. BALLINGER. Mr. Carter, you are absolutely right.

Mr. CARTER. If the Indians went to court to have it determined, then they may get compensation. The point does not go to the power of Congress to change the agreement and make a different distribution than that provided for by the agreement, but the point goes to show that the Indians can recover if a wrong is done them by that power which Congress exercised.

Mr. HASTINGS. I was called to the phone and did not hear the discussion as it was going on. I have not read the decisions of the Supreme Court of the United States for the past two or three years, but I would be surprised with any decision of the Supreme Court of the United States that did not say that Congress had the plenary power to wind up any Indian affairs, divide up the land, and distribute their money as in the judgment of Congress would be to the best interests of the Indians, provided that nothing was taken away from them. That is the position I take. I say that it makes no difference in law whether there have been previous agreements or not. I not do suppose that there is any tribe that has not had agreements and treaties made with the Government of the United States. Some of them run back as far as a hundred years. Now, I will assert that the decisions hold that those treaties are no more than acts of Congress, and agreements are no more than acts of Congress, and that treaties, agreements, and acts of Congress can all be repealed by the Congress of the United States and new legislation enacted, provided that the whole estate is administered and nothing taken away from it.

Mr. BALLINGER. Let me make a few observations here. I think we practically agree. I think it is universally agreed that morally Congress has no right to do that.

Mr. HASTINGS. I have tried to say that I do not agree that morally they could do that. I tried to emphasize that.

Mr. BALLINGER. Mr. Chairman, according to recent pronouncements from high sources, moral obligations are of greater import than legal obligations.

The CHAIRMAN. We are not considering that at the present moment.

Mr. BALLINGER. Now, I want to suggest this to my friend. An agreement may be changed prior to the time that property rights attach, but when property rights attach, then I submit that Congress, the Government of the United States, a party to the agreement, can not change it. Otherwise it would be a unilateral agreement. Now, in this case at point there was an agreement creating a perfect trust. A provision was made for the cession of land to the United States in trust to be disposed of specifically as provided in the agreement creating the trust. Now, when that land was ceded to the United States in trust a trust was created, and the property was surrounded by every provision of that agreement creating the trust. I am not willing to concede that Congress has the power at this late day without the consent of the other party to the agreement to change or alter or modify that trust thus created. Now, Mr. Chairman, I am not going to occupy any more of the time of the committee at this point. We have the print here of the department bill and of the bill that was approved by the General Council. I have not had opportunity to examine the departmental print, and I do not want unnecessarily to take up your time. Therefore, if I can have until to-morrow morning I think I can state it in much less time than I can now.

The CHAIRMAN. Yes. Mr. Ballinger, are there any members of the General Council who desire to be heard in this connection?

Mr. BALLINGER. No one else for the General Council.

The CHAIRMAN. Then, who desires to open for the opposition?

Mr. MERITT. Mr. Chairman, inasmuch as Mr. Ballinger has had considerable time to present his side of the case, we would like to have as much time as has been allowed Mr. Ballinger to present the other side of the case. There will be several gentlemen who will wish to make their statements, but we will keep our arguments within the time allowed to Mr. Ballinger.

The CHAIRMAN. Do you include in that those who oppose the argument on the part of the Red Lake people?

Mr. MERITT. Yes, sir.

The CHAIRMAN. There is some one here from the Red Lake Band who will speak for them particularly?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And give their reasons for their opposition to the proposition?

Mr. MERITT. Yes, sir.

The CHAIRMAN. I see no reason why the committee would not desire to give you all the time you want to present your side of it. We are ready to discuss this matter from all of its angles, with the hope that we may be able to bring about a solution of the whole situation. Therefore I think the committee is willing to give whatever time is necessary to hear all parties at interest. Do you desire to proceed now, Mr. Meritt?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Gentlemen, we will hear from Mr. Meritt.

STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, it is apparent that Mr. Ballinger has given a great deal of thought to this Chippewa situation and a great deal of time has been taken by Mr. Ballinger in preparing his statement before this committee. My time is so fully taken up with other matters in the Indian Bureau that I shall not attempt to answer in detail all of the points brought out by Mr. Ballinger, but I will in an extemporaneous and offhand sort of way attempt to answer some of the points raised by him wherein I believe he may have given the committee a wrong impression regarding some of the facts and circumstances in connection with this Chippewa situation. In my statement to the committee yesterday, I included the report and the bill that had been submitted to the department, referring all the claims of the Chippewa Indians to the Court of Claims. The department is perfectly willing that every claim that the Chippewa Indians have against the Government shall go to the Court of Claims with the right of appeal to the Supreme Court for final adjudication. That is our policy in regard to all Indian claims. We are willing that all Indian tribes in the United States shall have the right to go to the Court of Claims and try out their claims against the Government.

I also included in my statement yesterday the report of the Secretary of the Interior on the bill now under consideration, together with a redraft of that bill, which expresses the views of the department. We took a great deal of time on this bill. Probably more time and attention was given this bill than any other that has come to the Indian Office in a great many months. We had conferences with the various representatives of the Indian Bureau, with Mr. Ballinger, and members of the Chippewa Council; and also with Mr. Peter Graves, who represents the Red Lake Indians, and with Mr. Henderson who represents the Red Lake Indians as their attorney. I believe we have submitted a bill here that is fair to the Chippewa Indians of Minnesota, as well as to the Government. We attempted in that bill to exclude the questions that would go to the Court of Claims for adjudication, in this jurisdictional bill. The question was raised yesterday as to whether or not the two bills should be combined, so that if one bill goes through Congress the other bill would get through. Our position on that point is this. We think that the jurisdictional bill should go through Congress as a separate measure, but we have no objection to the jurisdictional bill being added to the legislative bill, provided the bill is passed by Congress in approximately the form submitted to this committee by the department.

The CHAIRMAN. Right there: Suppose the committee sees fit to rearrange to a considerable extent the bill that you have presented, what effect would that have upon the carrying out of the bill provided we do make some changes and add the jurisdictional section to the bill? Will it have the effect of making it abortive, or anything of that sort?

Mr. MERITT. We do not want any legislation by Congress regarding controversies as to the title of the Red Lake Reservation. We prefer to have that question go to the courts for final adjudication.

The CHAIRMAN. Will there be an obligation that will make the law negative provided changes are made and the bill goes through as a unit, the two bills together?

Mr. MERITT. That would depend, of course, upon the legislation that was incorporated in the bill. It would be inconsistent for Congress to declare, for example, that the title to the Red Lake Reservation was in the Red Lake Indians, and at the same time submit that question to the Court of Claims for adjudication. I wish at the outset to impress upon this Indian Committee of Congress that the Chippewa situation is very complicated, and there are many factions among the Chippewa Indians representing varying views. During the absence of the chairman and within the last month we had about 20 Chippewa Indians from the Chippewa country protesting against certain recommendations that had been made and they came before this committee and were heard at that time. There has been enacted by Congress legislation regarding the White Earth Reservation.

This legislation is found in the Indian appropriation acts of 1906 and 1907. I want to take pointed issue with Mr. Ballinger in his statement that the Indian Bureau is responsible for that legislation. The Indian Bureau had nothing to do with it. We were opposed to the legislation and we think that it resulted in frauds that are probably unparalleled in the history of Indian legislation. That legislation resulted in a large number of the members of the White Earth Reservation being defrauded outrageously of their property rights. The lumbering interests of Minnesota profited to the extent of millions of dollars by that legislation. The land grafters around that reservation after the lumbering interests had gotten the timber profited very greatly in getting hold of the land of the Indians. The jurisdiction of the department was removed over all adult Indians of less than full blood and we were powerless to protect these White Earth Indians. I wish that the committee might find time to read the report of the congressional committee that investigated these frauds. What is known as the Graham congressional committee went to Minnesota and they have several volumes printed showing the frauds that were perpetrated against those White Earth Indians. They were outrageous. They are unequalled in the history of the Indian Service, and I want it distinctly understood that the Indian Bureau was not responsible for that legislation in any way. Now, Mr. Chairman, with the experience that we had in connection with the White Earth Reservation we have been exceedingly careful as to what legislation was enacted in connection with the Red Lake Reservation. We don't want a repetition of the White Earth scandals on the Red Lake Reservation. Certain timber interests of Minnesota have had their eyes on the valuable timber on the Red Lake Reservation for many years.

We do not propose that the lumbering interests of Minnesota shall get the timber on the Red Lake Reservation without adequate compensation to the Red Lake Indians. Mr. Ballinger has referred to the expensive drainage that will be required on the Red Lake Reservation. I wish to invite the attention of the committee to legislation that is now pending before Congress authorizing the drainage of this reservation, and I wish to state that it is perhaps the cheapest drainage connected with any reservation in the United States. It will cost less than \$3 per acre to drain the lands of the Red Lake Reservation and make them fit for farming.

The CHAIRMAN. I think Mr. Ballinger stated that it would cost about \$250 an acre.

Mr. MERITT. My statement in regard to this matter can be confirmed by reports that have been submitted to Congress; also by Mr. Steenerson, who represents that district in Congress.

Mr. CARTER. By whom were the reports submitted?

Mr. MERITT. By the Secretary of War; and for the information of the committee I will include reference to the documents in my statement.

The CHAIRMAN. That will be very desirable.

Mr. MERITT. See House Document No. 61, Sixty-sixth Congress, first session.

Mr. CARTER. Were they made by engineers, the estimates?

Mr. MERITT. Yes, sir. Mr. Ballinger made the statement that the Indian Bureau procured the act of Congress of 1916 relating to the Red Lake Forest Reserve.

Mr. BALLINGER. 1916.

Mr. MERITT. Mr. Ballinger is absolutely mistaken in that statement. The statement was made that we procured that legislation in order to perpetuate the Indian Bureau.

The CHAIRMAN. He qualified that statement afterward by stating that it was procured in order to perpetuate it with regard to its activities in Minnesota.

Mr. MERITT. That statement is absolutely incorrect, gentlemen of the committee. The Indian Bureau did not initiate that legislation. That legislation was initiated by Members of Congress from the State of Minnesota, and my statement can be confirmed by calling up ex-Senator Clapp, who was formerly chairman of the Committee on Indian Affairs in the Senate. Senator Clapp himself presented that legislation to the Senate committee and got the legislation incorporated in the Indian bill.

Mr. CARTER. Was it submitted to the department for recommendation and report?

Mr. MERITT. I think it was submitted to the department for recommendation and report, and we suggested certain modifications inasmuch as they were going to include the legislation in the bill.

Mr. CARTER. Were they put in the bill?

Mr. MERITT. I do not recall the details of it, but I know that the Indian Office had nothing to do with the initiating of that legislation, but it was included in the Indian bill at the suggestion of Senator Clapp. So much for that statement that we procured that legislation in order to perpetuate the Indian Bureau on the Red Lake Reservation. Now, the statement that Mr. Ballinger made that the Red Lakes are compelled to live on the reservation in order to protect their property holdings is very misleading. We do not require the Red Lake Indians to live on the reservation and they will not lose their property rights if they go off the reservation and get employment outside the reservation.

The CHAIRMAN. Have they lost their property rights by going away at any time?

Mr. MERITT. No, sir; they have not.

The CHAIRMAN. In no particular case?

Mr. MERITT. No, sir.

Mr. CARTER. Suppose one should leave and take his family with him and absent himself from the reservation for say three or four years, would that have any effect on it?

Mr. MERITT. If he is a member of the Red Lake Reservation and is on the rolls of the Red Lake Reservation it would not deprive him of any of his property rights on the reservation. We have Indians on the rolls now and these Indians will share in the property.

The CHAIRMAN. How long has that roll been completed?

Mr. MERITT. We have had that roll for a number of years.

Mr. HASTINGS. It is not a final roll?

Mr. MERITT. It will not be a final roll until this act is passed. This act will require the making of a final roll, but we will use this roll in making up the final roll.

Mr. HASTINGS. It would not be a final roll anyway, under the existing law.

Mr. MERITT. Not under the existing law.

Mr. HASTINGS. Suppose this legislation is not passed, have you now a final roll of this band of Indians?

Mr. MERITT. We have not a final roll, because children born are added to the roll.

The CHAIRMAN. Is it pretty nearly up to date?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Now, has the department the authority to take off the roll the name of anyone that is on it now?

Mr. MERITT. If they are on there by fraud we have the authority to take their names off the roll.

The CHAIRMAN. Who determines the question of authority?

Mr. MERITT. The Secretary of the Interior. So much for that misleading statement regarding the Red Lake Indians leaving the reservation. Now, as to the title of the Red Lake Indians to the Red Lake Reservation. You will note that Mr. Ballinger in his statement was careful not to refer to the act of 1904 until I handed the members of the committee the law on yesterday and invited their attention to a certain article in that act. That agreement with the Red Lake Indians was made by Maj. McLaughlin, United States inspector, a gentleman who has been in the Indian Service almost half a century, and he has made more treaties and agreements with the Indians than any other living man, or any other man in the history of the United States. We have with us this morning Maj. McLaughlin, and I want him to be given an opportunity to make a statement to the committee in regard to this agreement.

The CHAIRMAN. Would you like to have him make the statement now, Mr. Meritt?

Mr. MERITT. No, sir; not just at this time.

Mr. CARTER. What is the contention?

Mr. MERITT. The contention is that the Red Lake Indians do not own the Red Lake Reservation; that the Chippewa Indians generally, after the Red Lake Indians have received allotments, will share in the surplus property of the Red Lake Indians.

Mr. CARTER. You contend that that is not true?

Mr. MERITT. We contend that Congress is on record as recognizing the rights of the Red Lake Indians to the Red Lake Reservation.

Mr. CARTER. And recognizing them alone?

Mr. MERITT. Recognizing them only.

Mr. HASTINGS. Through this act of 1904?

Mr. MERITT. Through the act of 1904, and also in the act of 1916—two acts of Congress.

Mr. CARTER. Is the act of 1904 an agreement or——

The CHAIRMAN. An agreement.

Mr. MERITT. An agreement which was subsequently enacted by Congress.

Mr. HASTINGS. As all agreements are.

The CHAIRMAN. Well, now, is that right—"as all agreements are"?

Mr. MERITT. No, sir; all agreements are not enacted by Congress. This agreement was modified by Congress before being finally enacted.

Mr. CARTER. Let me ask you a question. Is it not necessary for an agreement to be ratified by Congress before it becomes a binding agreement—an agreement with the tribe, I mean?

Mr. MERITT. Yes, sir.

Mr. CARTER. Is it or is it not the practice of Congress to modify those agreements when they come before Congress?

Mr. MERITT. Congress has refused to approve some agreements and some treaties, and Congress has modified some agreements and treaties. Now, in this agreement with the Red Lake Indians we find article 4, which reads as follows:

It is further agreed that the said Indians belonging on said Red Lake Reservation in Minnesota shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians and shall be entitled to allotments therein of 160 acres each of either agricultural or pine land, the different quarters of land to be apportioned as equitably as possible among the allottees.

That part of the agreement is carried in the act of Congress, and Congress in the act of February 20, 1904, has recognized and enacted this provision of the agreement, and I think it is in the exact language.

Mr. CARTER. Was that in the original agreement?

Mr. MERITT. That was in the original agreement.

Mr. CARTER. Before it was modified?

Mr. MERITT. It was in the act of Congress which passed.

Mr. CARTER. How was this agreement ratified—I mean not by Congress, but by the Indians?

Mr. MERITT. I will ask Maj. McLaughlin to give you the details of that.

Mr. HASTINGS. Is that an agreement with all the bands of the Chippewas?

Mr. MERITT. This is an agreement with the Red Lakes alone.

The CHAIRMAN. An agreement with the Red Lakes alone.

Mr. HASTINGS. You say that it is your recollection that this section was not changed?

Mr. MERITT. It is my recollection that it was not changed by Congress.

Mr. HASTINGS. There was some changes, however, made in the agreement by Congress.

Mr. MERITT. There were some slight changes made in the agreement by Congress.

Mr. DALLINGER. Was this agreement assented to by all the Chippewa Indians?

Mr. MERITT. No, sir.

The CHAIRMAN. Mr. Meritt can not state whether this agreement was ratified by the Indians after it passed Congress or not.

Mr. HASTINGS. Did they not reject it?

Mr. BALLINGER. Mr. Meritt, as a matter of fact, after Congress modified this agreement and included it in the act of 1903, the Indian appropriation bill, it was submitted to the Indians and was rejected by the Indians, and then it came back here and was included in the act of 1904, the act of Congress, and was never resubmitted to them.

Mr. MERITT. Mr. Chairman, this provision that I am going to quote is on the statute books of the United States and has been passed by Congress, and I think it is exactly in the language of the agreement of the Chippewa Indians. We do not want to overlook that fact that the agreement with the Red Lake Indians was to the effect that the Red Lake Reservation should belong to the Red Lake Indians. There is no dispute as to that point.

Mr. CARTER. But, as I understand that, the other bands of the Chippewas were not consulted about that?

Mr. MERITT. The other bands of Chippewas were not consulted about the Red Lake agreement.

Mr. CARTER. But the same lands were included in the agreement of 1889, were they not?

Mr. MERITT. The agreement of 1889 covered all of the Chippewa lands.

The CHAIRMAN. Including the Red Lakes?

Mr. MERITT. Including the Red Lakes, but the Red Lake Indians, it should be remembered, had a distinct understanding with the commissioners in 1889, prior to the passage of the Nelson Act, that the Red Lake Reservation was to belong exclusively to the Red Lake Indians.

Mr. CARTER. Was that in the agreement of 1889?

Mr. MERITT. That was not in the agreement of 1889, but that was the understanding with the Red Lake Indians.

The CHAIRMAN. Is there any record of that understanding?

Mr. CARTER. I was about to ask the same question.

Mr. MERITT. I will have to look up the records in order to determine that.

The CHAIRMAN. If you should find anything of that sort, you have permission to put it into the record at this point.

Mr. MERITT. In order that it may appear in the record, I want to read what was enacted by Congress on this provision relating to title to the Red Lake Indians. It is found on page 48 of the act, 33 Statutes at Large, in the act of February 20, 1904, and I think it is in exactly the language of the agreement with the Red Lake Indians:

ARTICLE 4. It is further agreed that the said Indians belonging on the said Red Lake Reservation in Minnesota shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians, and shall be entitled to allotments therein of 160 acres each of either agricultural or pine land, the different quarters of land to be apportioned as equitably as possible among the allottees.

You will see, gentlemen, that Congress is on record as recognizing that the lands within the Red Lake Reservation belong to the Red Lake Indians.

The Indian Bureau is an administrative branch of this Government, and it is our duty to follow the legislation enacted by Congress. In performing that duty we have recognized the fact that the Red Lake Reservation belongs to the Red Lake Indians. Now, Congress has also recognized the right of the Red Lake Indians in the Indian ap-

appropriation act of May 18, 1916, wherein it created the Red Lake Indian Forest Reserve, and authorized the distribution and sale of certain of that timber, the funds to go to the Red Lake Indians.

Mr. HASTINGS. After this act of 1904 was passed recognizing the right of the Red Lake Indians, how soon was there any protest in behalf of the other bands they recognized?

Mr. MERITT. We have not had any protests, except very recently, and I think it has been brought about somewhat because of the fact that the White Earth Indians had gone through with their property. They have been given their allotments. They have disposed of them under the amendment that I have pointed out, and as a result to-day 80 per cent of the White Earth adult mixed-blood Indians are without their lands, and having gone through with their allotments they now want to take part of the lands belonging to the Red Lake Indians. At least, that is what the Red Lake Indians claim.

Mr. CARTER. Under that act, Mr. Meritt, how was the degree of blood determined—that is, what procedure was necessary to distinguish the mixed blood from the full blood?

Mr. MERITT. That unfortunate legislation was so worded that it did not provide that the department should make a roll of the White Earth Indians separating the mixed bloods from the full bloods. It was passed, as I stated, without our solicitation and resulted in great confusion and loss to the White Earth Indians; and we have attempted to straighten this matter out, not only through our department but through the Department of Justice. We have prepared a roll of the mixed-blood Indians and a roll of the full-blood Indians on the White Earth Reservation.

Mr. CARTER. Well, you have not answered the question. The inquiry that I made, Mr. Meritt was, How was the degree of blood determined in the absence of a roll?

Mr. MERITT. It was determined by data in the office of the department here in Washington, and also in the office of the superintendent at the White Earth Reservation, and upon testimony of various people.

Mr. CARTER. What tribunal determined it?

Mr. MERITT. Congress in the Indian Appropriation act of a few years ago directed that there should be a commission appointed to straighten out this complication.

Mr. CARTER. But originally what tribunal determined the degree of blood?

Mr. MERITT. The Secretary of the Interior was the final authority.

Mr. CARTER. I thought the courts determined it.

Mr. MERITT. It was complicated somewhat and a great many of them had to go into court, where they were alleged to be mixed bloods; the department did not have any jurisdiction over it.

Mr. CARTER. Suppose a man claiming to be a mixed blood desired to sell his land. What procedure was necessary for that fellow to sell his land?

The CHAIRMAN. You are referring to the White Earths?

Mr. CARTER. I am referring to the White Earths.

Mr. MERITT. If he was an adult mixed blood there was no procedure necessary for him to sell the land beyond simply executing a deed to the land.

Mr. CARTER. Well, then, when was his degree of blood determined? That is the point I am trying to get at.

Mr. MERITT. It was determined by the department and by this commission authorized by Congress.

Mr. CARTER. But the commission was not provided for at the time the Clapp amendment was passed, as I understand it. Now, before that how was the determination of the degree of blood brought in order that a fellow might be entitled to alienate his property, under the Clapp amendment per se?

Mr. MERITT. We did not anticipate that legislation, therefore we did not prepare the roll to conform to that legislation. The Secretary of the Interior, however, had the rolls prepared and we thought we knew who were full bloods and who were mixed bloods.

Mr. CARTER. I will assume that the chairman is a White Earth Chippewa Indian—

The CHAIRMAN. I have been called all kinds of Indians, but never a Chippewa before.

Mr. CARTER. But we will assume that he is, and that he makes a transfer of his allotment. Was there any procedure whatever necessary to validate that transfer? If he were a mixed blood, there would be no procedure necessary except that he would simply execute a deed. How would it be determined that he was a mixed blood?

Mr. MERITT. The department had to take the testimony of different people.

Mr. CARTER. The Secretary of the Interior did that, and not the courts?

Mr. MERITT. I know the courts had jurisdiction if he was a mixed blood, but if a full blood the Secretary of the Interior had jurisdiction. Under the Clapp act the courts held that any Indian possessing any degree of white blood was a mixed blood.

Mr. HASTINGS. That was a question of fact.

Mr. MERITT. It was a question of fact.

Mr. HASTINGS. To be determined in any case.

Mr. MERITT. To be determined in any case.

Mr. HASTINGS. And, as a matter of fact, the purchaser in each one of those cases had to take affidavits to the effect that the fellow was less than full blood, did he not?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. I imagined that is what he did.

Mr. MERITT. And under that amendment a great many full bloods, in order to sell their land, would make affidavits that they were mixed bloods in order to get the money. Now, as to the forest reserve created by the act of 1908 covering Indian lands, I want to state that the Indian Bureau had nothing whatever to do with that legislation. We think that that legislation was unfair to the Chippewa Indians and we very willingly consented to the legislation in the bill that this timber which belongs to the Chippewa Indians shall be sold and that the proceeds shall go to the owners of the timber. I think that Mr. Ballinger will confirm that statement. Now, as to the number of agencies in the Chippewa country. The impression has been given the committee that we have a great many unnecessary agencies among the Chippewa Indians. I want to state, Mr. Chairman, that we have at this time in the Chippewa country, I think, four agencies—one at Red Lake, where there are about 1,500 Indians; one covering the Leech Lake jurisdiction, where there are

about 1,700 Indians; one covering the Fond du Lac jurisdiction and outlying districts, where there are about 2,000 Indians; and one at White Earth Reservation, where there are about 6,794 Indians.

The CHAIRMAN. Those figures do not quite agree with the figures given by Mr. Ballinger, and his statement that 60 per cent of the 12,000 Indians that you are legislating for up there do not exist any more upon those reservations.

Mr. BALLINGER. That would depend upon where he got the figures.

The CHAIRMAN. Mr. Meritt mentioned that there are about 12,000 Indians up there in those reservations.

Mr. MERITT. There are about 12,000 Indians, and there are about six or seven thousand of those Indians who are no longer under the jurisdiction of the department.

Mr. BALLINGER. Then those agencies really have charge of only about 6,000 Indians, then?

Mr. MERITT. Those four agencies are supervising the affairs of about 6,000 Indians where restrictions have not been removed, but it should be remembered that these other Indians still have an interest in the Chippewa fund, and it is necessary to pay out money to those Indians, notwithstanding that they have received patents in fee. Now, in order that the record may show that I will ask to have included in my statement a table showing exactly the number of patents in fee that have been issued among the Chippewa Indians on the reservations.

The CHAIRMAN. And will you include in that the period over which that extends, as nearly as you can?

Mr. MERITT. This statement shows patents having been issued from May, 1906, to June 30, 1918.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The statement is as follows:

Patents in fee issued under act of May 8, 1906, as modified by acts of May 29, 1908, and June 25, 1910.

Reservations.	Patents in fee issued from -		Total.
	May 8, 1906, to June 30, 1919.	June 30, 1919, to Jan. 20, 1920.	
White Earth.....	3,766	200	5,766
Leech Lake.....	293	54	347
Fond du Lac.....	95	31	126
Grand Portage.....	44	19	63
Nett Lake.....	51		51
Total.....	4,219	2,104	6,323
CERTIFICATES OF COMPETENCY.			
Lac Courte Oreille.....	156	20	176
Lac du Flambeau.....	29		29
La Pointe (Bad River).....	197	49	246
Red Cliff.....	66	17	83
Total.....	448	86	534
Grand total.....	4,667	2,190	6,857

* Restrictions removed under act June 21, 1906, (34 Stat. 1, 253.)

* Recommended.

- Issued.

Mr. MERITT. I might say further that we do not want to retain under our jurisdiction a single Indian who is competent and who is able to handle his own affairs. We would be very glad to get every Indian who is competent out from under the jurisdiction of the Indian Bureau.

The CHAIRMAN. If this proposed legislation should become a law how many Indians would it leave up there under restriction, how many of the 6,000?

Mr. MERITT. It would probably release between three and four thousand Indians.

The CHAIRMAN. How does your estimate of the time that the affairs of the Chippewas can be wound up in case this legislation shall become effective, agree with Mr. Ballinger's, as to the administration of the bureau, the activities of the bureau, in connection with these Chippewa Indians?

Mr. MERITT. I think that the activities of the Indian Bureau would be reduced at least 50 per cent within the next five years if this legislation that we have proposed shall be enacted by Congress.

Mr. HASTINGS. Has all the land been surveyed, appraised, and graded? I was wondering whether or not these details would have to be completed.

Mr. MERITT. I think some of the land would have to be appraised. I do not think all of it has been appraised.

Mr. HASTINGS. All of it has been surveyed?

Mr. MERITT. All of it has been surveyed. Now, as to the employees in the Indian Service in Minnesota, Mr. Ballinger gave the impression that we had a great many unnecessary employees at these agencies and schools. I want to furnish the committee with a list of the employees now at all of the schools and agencies in the Chippewa country, and I wish the committee would take the time to notice the salaries of those employees, and the small amount of money that is being paid out for this service compared with the amount of money that is being paid for employees now outside of the Government service. I think the average salary of the employees among the Chippewa Indians will be considerably less than \$800 a year.

The CHAIRMAN. Now, Mr. Meritt, I would like to ask you two or three questions of a general character with regard to situations like that. It is claimed by Mr. Ballinger that there is a large number of unnecessary employees; and you claim that the salaries of all the employees are very small. What would you say to the proposition of eliminating 50 per cent of all the employees and increasing the salaries of the remainder of them? What would be the effect of that upon the general situation?

Mr. MERITT. It would be impracticable, Mr. Chairman, from the administrative standpoint.

The CHAIRMAN. Everybody will concede that if those men are doing anything that an average salary of \$800 is simply absurd. It is my belief that you could reduce the force 50 per cent, and that much money could be saved by paying the remainder of the employees a sufficient salary that would enable you to get a higher grade of employees, and that the service would thereby be greatly benefited.

Mr. DALLINGER. I understand that Mr. Ballinger's contention was that a great many of those employees could be dispensed with. He mentioned several specific instances, one being where there was a

public school that was very much better than the school that was being maintained by the Government, with plenty of room to take care of those pupils. Why, in that instance, could not the pupils be put in the public schools?

Mr. MERITT. In answer to that question I will say that we have been materially reducing the number of students in the Government schools among the Chippewa Indians, and it is our desire that the children be gotten out of the Government schools and into the public schools as quickly as possible. It has been shown in hearings before this committee and before the Senate committee that we get Indian children out of the Government schools and into the public schools wherever practicable.

The CHAIRMAN. I think we have forced that situation about to the limit for the present.

Mr. MERITT. Mr. Chairman, in order that Congress and everybody may have information about the employees among the Chippewa Indians, I would like to have this statement go into the record.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The statement follows:

AVERAGE SALARIES IN FOND DU LAC INDIAN SCHOOL, MINNESOTA.

[Payable from "Interest on Chippewas in Minnesota Fund."]

Superintendent.....	\$1,600
Nett Lake day school (capacity, 60):	
Teacher.....	720
Housekeeper.....	360
Grand Portage day school (capacity, 30):	
Teacher.....	900
Housekeeper, \$30 month.....	300
Vermilion Lake boarding school, caretaker.....	600
Total.....	4,420

Fond du Lac Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1,100	\$1,100	
Do.....	780	780	
1 financial clerk.....	600	600	
1 laborer.....	600	600	Chippewa in Minnesota, fund, 1920.
Total.....		3,080	
1 stenographer 6 months, per month.....	75	450	Expense account, timber.
Hospital:			
1 physician (white).....	\$1,200	1,200	
1 nurse (white).....	660	660	
Do.....	600	600	
1 cook (Indian).....	500	500	
1 laborer (Indian).....	500	500	
1 housekeeper (Indian).....	300	300	Chippewa in Minnesota, fund 1920
Total.....		3,760	
Miscellaneous:			
1 chief of police, per month.....	50	600	Pay of Indian police, 1920.
1 private.....	25	300	
Total.....		900	
NETT LAKE SUBAGENCY.			
White, 1 physician.....	1,200	1,200	Chippewa in Minnesota fund, 1920

Fond du Lac Agency, Minn.—Continued.

Position.	Rate of pay.	Total.	Payable from—
NETT LAKE SUBAGENCY—contd.			
Indian:			
1 Laborer.....	\$480	\$480	Chippewa in Minnesota fund, 1920.
1 Interpreter.....	300	300	
Total.....		780	
Miscellaneous:			
1 private, per month.....	30	360	Pay of Indian police, 1920.
Do.....	20	240	
Total.....		600	Expense account, timber.
1 scaler, not exceeding 6 months, per month.	80	540	
GRAND PORTAGE SUBAGENCY.			
White, 1 physician (contract).....	720	720	Chippewa in Minnesota fund, 1920.
Miscellaneous:			
1 private, per month.....	30	360	Pay of Indian police, 1920.
1 forest guard, 6 months, per month.	50	300	Industrial work and care of timber, 1920 (Forestry).

¹ Effective Jan. 1, 1920.² Allowed subsistence when actually on duty.*Average salaries in Leech Lake Indian School, Minnesota, capacity, 90.*

[Payable from "Chippewas in Minnesota Fund."]

Superintendent.....	\$1,800
Disciplinarian.....	¹ 600
Principal.....	900
Teacher.....	600
Do.....	630
Industrial teacher.....	¹ 660
Matron.....	¹ 540
Seamstress.....	¹ 500
Laundress.....	480
Cook.....	¹ 500
Engineer.....	¹ 720
Assistant.....	¹ 480
Total.....	8,500
Cass Lake Boarding School (capacity, 40):	
Principal.....	1,000
Teacher.....	600
Matron.....	540
Seamstress.....	300
Cook.....	300
Assistant.....	300
Laborer.....	600
Laborer, 5 months, at \$40 per month.....	² 200
Total.....	3,840

¹ Payable from "Support of Chippewas of the Mississippi, Minnesota, 1920."² Employed from Nov. 1, 1919, to Mar. 31, 1920.

Leech Lake Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1,100	\$1,100	
Do.....	1,200	1,200	
3 physicians.....	1,200	3,600	
1 blacksmith.....	900	900	
1 sawyer and marine engineer.....	900	900	
1 farmer.....	900	900	Chippewas in Minnesota fund, 1920.
Total.....		8,600	
Indian:			
1 laborer.....	500	500	
Do.....	600	600	
Total.....		1,100	Do.
1 laborer.....	720	720	Two-thirds Chippewas in Minnesota fund, 1920, and one-third interest on Chippewas in Minnesota fund (education).
Miscellaneous:			
2 judges.....	84	168	Pay of judges, Indian courts, 1920.
1 chief of police, per month....	25	300	
2 privates, per month.....	30	720	
6 privates, per month.....	20	1,440	
Total.....		2,460	Pay of Indian police, 1920.
1 timber clerk.....	¹ 1,200	1,200	
1 scale inspector.....	¹ 1,200	1,200	Chippewas in Minnesota fund.
Total.....		2,400	
1 assistant timber clerk.....	1,000	1,000	
Do.....	900	900	
15 scalars, not exceeding 3 months, per month.....	90	4,050	
Total.....		5,950	Expense account, timber.
1 nurse.....	720	720	
1 cook.....	500	500	
Total.....		1,220	Relieving distress and prevention, etc., of diseases among the Indians, 1920.

¹ Employed under act of June 27, 1902 (32 Stat. L., 400).

Average salaries in Red Lake Indian School, Minn., capacity 75.

[Payable from "Interest on Chippewas in Minnesota fund."]

Superintendent.....	\$1,700
Principal.....	900
Teacher.....	630
Do.....	630
Matron.....	600
Assistant matron.....	300
Seamstress.....	480
Laundress.....	480
Cook.....	480
Engineer.....	720
Night watchman.....	300
Laborer.....	360
Do.....	420
Total.....	8,000

Cross Lake School, capacity 93:

Principal.....	\$1,000
Teacher.....	600
Kindergartner.....	600
Matron.....	540
Assistant matron.....	480
Seamstress.....	480
Disciplinarian.....	720
Laundress.....	450
Cook.....	480
General mechanic.....	720
Laborer.....	600
Laborer, 6 months, \$25 per month.....	150
Total.....	6,820

Red Lake Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1,200	\$1,200	Indian moneys, proceeds of labor, Red Lake Indians (support, 1920).
1 assistant clerk.....	720	720	Do.
1 financial clerk.....	600	600	Do.
1 physician.....	1,400	1,400	Do.
Do.....	1,200	1,200	Do.
1 engineer.....	1,200	1,200	Do.
1 farmer.....	900	900	Do.
1 carpenter.....	600	600	Do.
1 laborer.....	360	360	Do.
Total.....		8,180	Chippewas in Minnesota fund, 1920.
1 assistant clerk.....	900	900	Indian moneys, proceeds of labor, Red Lake Indians (support), 1920.
1 timber clerk.....	900	900	Red Lake Forest 4 per cent fund.
Hospital:			
1 nurse (white).....	720	720	
1 cook (white).....	600	600	
1 laborer (white).....	600	600	
2 assistants (Indian).....	300	600	
1 assistant (Indian).....	600	600	
Total.....		3,120	Chippewas in Minnesota fund, 1920.
Indian:			
1 blacksmith.....	720	720	
Do.....	600	600	Indian moneys, proceeds of labor, Red Lake Indians (support), 1920.
1 interpreter.....	300	300	
Total.....		1,620	
1 logging foreman.....	1,200	1,200	Indian moneys, proceeds of labor, Red Lake Indians (sawmill), 1920.
Miscellaneous:			
1 farmer.....	900	900	Industrial work and care of timber, 1920 (A. & S.)
2 judges.....	84	168	Pay of judges, Indian courts, 1920.
1 chief of police, per month...	40	480	
4 privates, per month.....	30	1,440	
Total.....		1,920	Pay of Indian police, 1920.
3 forest guards, 3 months.....	60	540	Industrial work and care of timber, 1920 (Forestry).
1 ranger.....	1,200	1,200	
1 deputy supervisor of forests.....	1,400	1,400	
6 scalers.....	1,080	6,480	
Total.....		9,080	Red Lake Forest 4 per cent fund.
2 scalers.....	1,080	2,160	Indian moneys, proceeds of labor, Red Lake Indians (sawmill), 1920.
1 clerk, for not exceeding 3 months, per month.....	90	270	Do.

¹ Includes subsistence.² Effective Dec. 23, 1919.

Average salaries White Earth Indian School, Minn.

(Payable from "Interest on Chippewas in Minnesota fund.")

Superintendent.....	\$2,000
Engineer.....	800
Night watchman.....	500
Pine Point Day School, capacity 53:	
Teacher.....	600
Housekeeper.....	300
Round Lake Day School, capacity 30:	
Teacher.....	720
Housekeeper.....	300
Twin Lake Day School, capacity 30:	
Teacher.....	720
Housekeeper.....	300
Field service:	
Physician.....	1,400
Do.....	1,000
Total.....	8,640

White Earth Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 chief clerk.....	\$1,300	\$1,300	
1 financial clerk.....	1,200	1,200	
1 issue clerk.....	1,200	1,200	
1 assistant clerk.....	900	900	
1 clerk.....	840	840	
1 clerk (abstractor).....	900	900	
1 assistant clerk.....	840	840	
2 physicians.....	1,000	2,000	
1 physician (contract).....	500	500	
1 laborer.....	600	600	
Total.....		10,280	Chippewa in Minnesota fund, 1920.
Hospital:			
1 nurse (white).....	720	720	
1 matron (white).....	540	540	
1 cook (Indian).....	540	540	
1 laundress (Indian).....	420	420	
1 assistant (Indian).....	540	540	
Do.....	300	300	
1 laborer (Indian).....	480	480	
Total.....		3,540	Chippewa in Minnesota fund, 1920.
Indian:			
1 assistant clerk.....	1,000	1,000	
1 matron.....	600	600	
1 cook.....	480	480	
1 laborer.....	600	600	
Do.....	480	480	
Total.....		3,160	Chippewa in Minnesota fund, 1920.
Miscellaneous:			
1 chief of police, per month.....	40	480	
Do.....	30	360	
Do.....	40	480	
6 privates, per month.....	20	1,440	
Total.....		2,760	Pay of Indian police, 1920.
1 forest guard.....	900	900	
3 forest guards 2 months, per month.....	50	300	
Total.....		1,200	Industrial work and care of timber, 1920. (Forestry.)
1 farmer.....	900	900	Industrial work and care of timber, 1920 (A. & S.).

(Below is a résumé of the data furnished in Mr. Meritt's statement.)

	Number of employees.	Salaries.
Superintendent.....	4	\$7,100
Principal.....	4	3,800
Teacher.....	13	8,700
Disciplinarian.....	2	1,300
Matron.....	6	3,360
Matron, assistant.....	2	780
Seamstress.....	4	1,700
Laundress.....	4	1,500
Cook.....	9	4,380
Assistant.....	3	1,140
Housekeeper.....	6	1,400
Caretaker.....	1	600
Nurse.....	5	3,420
Physician.....	13	14,260
Clerk, assistant timber, etc.....	22	20,650
Stenographer (6 months).....	1	450
Laborer (one, 5 months; one, 6 months).....	21	10,050
Farmer.....	4	3,600
Chief of police.....	6	2,700
Police, privates.....	22	6,300
Judges.....	4	336
Interpreter.....	2	600
Forest guard (three, 3 months; three, 2 months).....	8	2,040
Scaler.....	24	13,200
Ranger.....	1	1,200
Deputy superintendent of forests.....	1	1,400
Logging foreman.....	1	1,200
Scale inspector.....	1	1,200
Sawyer and marine engineer.....	1	900
Engineer.....	4	3,440
Engineer, assistant.....	1	480
Blacksmith.....	3	2,220
Carpenter.....	1	600
General mechanic.....	1	750
Night watchman.....	2	900
	307	122,368

19 part time.

Mr. MERITT. It is very easy, Mr. Chairman, to make a general statement about the large number of Indian employees, but when we have the concrete facts before us in a statement that can not be refuted, it is a very good answer to make to those extravagant statements of Mr. Ballinger.

The CHAIRMAN. Of course, the chairman had a broad view in mind when he suggested a reduction of 50 per cent of the employees. and it was not with any idea that where there was one superintendent he should be cut in two to force consolidation. The plan may be impracticable, but it at least appears sound in my judgment.

Mr. HASTINGS. What do you think of the practicability of having one head agent for all these bands of Chippewas and then some sub-agents to look after the separate bands under the general jurisdiction of the head agent there?

Mr. MERITT. We are working the administrative features out along that line so far as it is practicable. We have now one superintendent who has supervision not only of the Fond du Lac Indians, but of the Nett Lake Indians and the Vermillion Lake Indians. At Leech Lake agency we have a superintendent who is looking after the affairs not only of the Leech Lake Indians, but also of the Cass Lake Indians.

The CHAIRMAN. If it will not interfere with the sequence of your remarks, since you have mentioned Fond du Lac, I would like to hear about that school for which we are appropriating and which is apparently out of existence.

Mr. MERITT: I will be glad to do that a little bit later. Now, as to the alleged unnecessary employees among the Chippewa Indians. We have frequently heard that statement made, and on January 16, 1920, the Indian Office wrote each Chippewa superintendent an identical letter, which read as follows:

JANUARY 16, 1920.

There is transmitted herewith a copy of all positions authorized under your jurisdiction, taken from your salary list as it stands to-day. You should immediately go over this list and recommend for abolishment any and all positions which are not absolutely essential, and justify fully by position each of those which you recommend be retained. This information is of especial importance and your report must be in the office within 10 days from the date of this letters.

Very truly, yours,

E. B. MERITT,
Assistant Commissioner.

That letter was sent to each of the superintendents in the Chippewa country, and the reports from the superintendents showed that there were very few unnecessary employees.

The CHAIRMAN. And that all of them were working for too little money?

Mr. MERITT. Yes, sir. The employees in the Indian Service are working for salaries that are probably 50 per cent less than are being paid skilled laborers in the commercial world at this time.

Mr. HASTINGS. I think that is a very conservative statement.

Mr. MERITT. Mr. Chairman, while we hear a great deal of criticism about the Indian Service employees and what little good they are doing the Indians and while I hold no special brief for the Indian Service employees and have no desire to perpetuate the Indian Bureau a single day longer than is absolutely necessary. I think that if we look around this room to-day and see these educated Indians here, who are quite able to represent themselves before this committee, and remember the fact that only 50 years ago the Indians were roaming over the western prairies without any permanent home, I think that that evidence is within itself a tribute not only to the wisdom of Congress regarding Indian Affairs but it is also evidence that the Indian Bureau has been doing a good work to bring these Indians, within a period of 50 years, to the standard of civilization which they occupy to-day.

The CHAIRMAN. The time for recess having arrived we will recess until to-morrow morning at 10 o'clock.

The committee thereupon adjourned.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, March 10, 1920.

The committee this day met, Mr. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Gentlemen, a quorum of the committee being present, we will resume the hearing at this time, with Mr. Meritt as the witness. Before we begin, however, I desire to say it has come to my attention since last evening that there is a delegation here represented by an attorney who advises me that there has been an action started in the courts of Minnesota to determine who is the legal

representative of the Chippewa Council. It would seem that both Mr. Meritt and Mr. Ballinger must have been cognizant that such action was pending, and the chairman desires to state he was at least surprised that neither of these gentlemen had mentioned the matter. Before we proceed this morning I think we should consider the gravity of that situation, for, as I see it, if there has been such action started and it is of the proportions explained to me, there would be little use of proceeding further with this hearing until it was determined definitely who is their authorized legal representative capable of making an agreement in their behalf. I should like to hear from Mr. Meritt as to whether he concurs with my view or not.

Mr. MERITT. Mr. Chairman, I am advised that there has been in the courts of Minnesota legal action regarding the subject matter to which you refer. That litigation will in no way interfere with the proposed legislation to be enacted by Congress and should not delay the consideration of this bill by Congress. I knew that the attorney to whom you refer was in Washington, and it was my intention to ask this committee that he might be heard later after others had been heard on this bill. There is no disposition to deprive him of the full opportunity to be heard by this committee. The attorney in question is Mr. McDonald, and I had his name on the list here to be heard by the committee later in the day.

The CHAIRMAN. It occurred to me that the committee should be advised fully as to how far that litigation has gone, and I think it would be well for us to hear from the attorney and let him tell us what steps have been taken and what attitude he believes we would be in in case we attempted to go on with this legislation before that matter is cleared up in the courts. If the members of the subcommittee who are here agree with me, we will listen to the gentleman now, if he will just give his name and address.

STATEMENT OF MR. E. McDONALD.

Mr. McDONALD. My name is E. McDonald. I am an attorney and counsellor, practicing in Bimidi, Minn. This suit was commenced, as I recall it, in August, 1919.

The CHAIRMAN. Did you start the suit?

Mr. McDONALD. I did not. The title of the case is John G. Morrison, jr., et al., against the General Council of the Chippewa Indians of Minnesota (Inc.), a body corporate, Benjamin Caswell, et al. The action was brought in the district court of Becker County, the county seat of which is Detroit. Steps were taken to remove it to Itasca County, Minn., and it was removed. A demurrer was interposed to this complaint by myself. Shortly before the time for answering had expired I was retained by the representatives of the General Council of the Chippewa Indians of Minnesota (Inc.).

The CHAIRMAN. Let me ask you right there: What per cent of the Chippewas of Minnesota do you represent?

Mr. McDONALD. About 80 or 85 per cent, if I may be permitted to include the Chippewas of the Red Lake Agency.

The CHAIRMAN. Then, do I understand you to claim that the present counsel here recognized by the bureau has been chosen by perhaps 15 per cent of the Chippewa Indians of Minnesota?

Mr. McDONALD. That is substantially as I understand it.

Mr. HERNANDEZ. I understand that you represent these people in the suit to which you refer in the State of Minnesota, and not here.

The CHAIRMAN. Have you any authorization, any paper, you can leave with the committee showing that you are the regularly constituted representative of these people, with authority to represent them before this committee?

Mr. McDONALD. I appear in that litigation and my name appears attached to the answer. I am here to appear before your committee under a resolution passed by the council, or meeting representing the General Council of the Chippewa Indians of Minnesota (Inc.), held the other day at Cass Lake, at which delegates from all the reservations, I think, but two—Grand Portage and Nett Lake—

The CHAIRMAN. Have you a copy of that resolution?

Mr. McDONALD. Yes, sir.

The CHAIRMAN. Will you file that, please?

Mr. McDONALD. But my retainers relate to specific matters. I am the general attorney of the Chippewa Indians.

The CHAIRMAN. About when in the ordinary course of legal events will you get a decision from the courts in this matter?

Mr. McDONALD. I will make this very brief. A demurrer was interposed to that complaint and partially argued. Owing to the fact that Judge McManahan was of the opinion that the matters involved should be passed upon as soon as possible by the Supreme Court our said demurrer was overruled pursuant to an understanding between Mr. Ballinger, Mr. Rogers, and myself. Steps were taken to perfect an appeal to the Supreme Court, but owing to the fact that Mr. Coffey, one of the principal defendants, was called to Kansas City and because of some other delay in the matter of securing of necessary bonds, that appeal could not be taken.

We then interposed an answer setting up all the facts relating to the existence of the two councils, the council represented by Mr. Ballinger, which is a voluntary association organized in 1913, and the General Council of the Chippewa Indians of Minnesota (Inc.), that I represent here and represent in the litigation. That answer set up all the facts not set up in the complaint. The complaint sets up our incorporation and sets up our purposes, which is substantially correct, although it does not include the entire purpose of our organization. Now, our answer was served on the 20th day of December; the plaintiffs had 20 days in which to reply. No reply has been received. So far as the pleadings in this case are concerned the allegations in our answer with respect to the status of these two associations, one a voluntary and the other a legally incorporated association, stand admitted. Their time for replying to our answer expired January 9. The district court of Itasca County, in which this case is pending, opened a term of court the day your committee met, March 8. We had expected that the plaintiff in this case, Mr. Morrison, and his counsel would have noticed that this case was set trial at that term of court. It was not so noticed. The next term of court in Itasca County is about six months from now.

The CHAIRMAN. Well, now, just a moment. What is there in this proposed legislation that you people are opposed to?

Mr. McDONALD. I hope that I will not be called upon to go into that until I am given an opportunity to go into the matter somewhat

at length, but directly we are opposed to any portion of this legislation which recognizes the voluntary association as being in control of the Indian affairs of Minnesota. Wherever that appears in this legislation we are opposed to it, and for this reason: In this complaint the voluntary association claim that they are recognized by acts of Congress as the organization that is entitled to come here to-day and represent all of the Indians of Minnesota. They plead a portion of your last appropriation act as evidence that they are the only organization that are entitled to be heard with reference to the administration of the Indian affairs in Minnesota; and when I read it I will call your attention to that portion of the complaint in which they set up that their organization is recognized by an act of Congress.

The CHAIRMAN. Are you in position at this time, while here in the city, and while the council is here, to sit down with these men and see if you can correlate your affairs in such a way that you can all come to an agreement, so that legislation at least similar to that which we are contemplating can be brought about that would be satisfactory to all the parties concerned.

Mr. McDONALD. Mr. Chairman, I am of the opinion that there is no hope for any cooperation with those people who are dominating the General Council of the Chippewa Indians of Minnesota, with those people that may be designated first as the full-blooded Indians or those that are so classed, and the Red Lake Indians, and the reason is this: We are firmly of the opinion that those men who so far have been represented to your committee as representing all of the Indians of Minnesota ought not to participate in the administration of the Indian affairs of Minnesota, and much less ought they be permitted to dominate. As this bill provides that they shall dominate the Indian affairs of this State, could I but call your attention to the section there which provides—I don't know whether it is in this reprint or not—but the bill that you gentlemen were first asked to consider provided that the General Council of the Chippewa Indians of Minnesota shall convey to the State of Minnesota your Indian school lands, an assumption and presumption that was violent and absolutely wrong. There are many other things in connection with this proposed legislation when you come to pass upon it that I think will be called to your attention that will demonstrate the impossibility of this bill here. There are many things which lead the Indians to mistrust, which lead them to question practically everything that those who are now active in the so-called General Council of the Chippewa Indians of Minnesota are undertaking.

The CHAIRMAN. I will ask you again in a little different form: Suppose this litigation should come to a conclusion and a decision given in favor of the plaintiffs, what effect would that have upon any agreement that had been made at this time between the present council, the bureau, and this committee?

Mr. McDONALD. The effect of that decision would simply be that we would have to change our name. That is the real bone of contention. It is claimed, and we argued before Judge McManahan, that a voluntary association have the right to assume a name and that a corporation have not the right to take on that name, so that it would not defeat our organization. Our organization goes on just the same. We may, if Judge McManahan's or the Supreme Court's decision is

adverse to our contention, he obliged to change our name so as to distinguish it from the council presided over by Mr. Morrison.

The CHAIRMAN. That would have no effect upon an agreement that had previously been made by the council which is now recognized as being regular?

Mr. McDONALD. It would have, for this reason: That the Indian Bureau had no right to recognize the general council when they knew that there had been general-council meetings with this other organization and that had elected their president, their officers, and their delegates, and all that. The Indian Bureau had been so advised. We feel that that recognition is not binding upon us and that it never ought to have been made, and that the fair thing would have been to recognize the existence of—

The CHAIRMAN. What part of the 85 per cent of the Chippewas you claim to represent participated in the election or selection of officers in the present recognized council?

Mr. McDONALD. I don't think any of ours did. Ours was an entirely separate meeting held elsewhere.

The CHAIRMAN. At the same time?

Mr. McDONALD. That goes back to 1918, and I would be glad to go into the history of that.

The CHAIRMAN. You are making a very strong statement here when you maintain that this present recognized council was selected by only 15 per cent of the Chippewas, and that no part of the 85 per cent that you represent took part in that selection.

Mr. McDONALD. Well, now, it is all set up in my answer, and we gave the names of the delegates and their addresses, as I recollect it, that participated in our general council, and we claim that with the exception of the White Earth Reservation, and one other reservation, they did not have representation at all.

The CHAIRMAN. Well, now, are you prepared to state that you represent 85 per cent of the Chippewas of Minnesota?

Mr. McDONALD. I would nor want to say exactly—

The CHAIRMAN. Or thereabouts?

Mr. McDONALD. I will put it this way, that the gentlemen who are opposed to the general council represent more than 60 per cent.

The CHAIRMAN. And that 60 per cent are opposed to continuing with this hearing until it is definitely determined who are the legal representatives of the Chippewas?

Mr. McDONALD. I would not want to put it in that way.

The CHAIRMAN. I want the facts. I want to know whether you oppose this proposed legislation or whether you favor it.

Mr. McDONALD. Well, with reference to that part of it, if the chairman pleases, we had hoped to be able to lay many facts before this committee that either now or at some future time would be of assistance to it in relation to legislation.

The CHAIRMAN. Yes; but we have embarked here upon a serious investigation with a broad viewpoint, with, first, the idea of having the Chippewas get together and come to us with something that we would be able to coordinate in legislation. Now, we have here on the third day of the investigation an element claiming to represent 60 per cent of the Chippewas of Minnesota who can not say whether they are in favor of or opposed to the proposition.

Mr. McDONALD. We are absolutely opposed to this proposition.

The CHAIRMAN. That is what I wanted, a definite statement as to your position.

Mr. McDONALD. May I add one word further? Unless your committee desires to hear our presentation of some facts which are pertinent to the matter which is before your committee and the matters generally relating to it, then I really think that the hearing, so far as these proposed bills are concerned, should be ended right here.

The CHAIRMAN. Then, just one further question. If we go on with the hearing, are you prepared to come to us with testimony in an official capacity so that whatever decision the committee comes to it will know that it has either your consent or your objection, as representing at least 60 per cent of the Chippewa Indians of Minnesota?

Mr. McDONALD. As I understand it, gentlemen of the committee, we are here before this committee to-day at your invitation to assist you if possible in determining what should be done; and coming here at your invitation and laying such matters before you as we think will assist you, we of course submit to your committee's action. That would be the natural thing for us to do. In other words, we come here and submit our proposition and feel that we are leaving the matter in the hands of the committee.

The CHAIRMAN. I fail to discover whether you are opposed to everything we are doing here or not, but we are perfectly willing to listen to you later on in the hearing, when you will probably tell us whether you are opposed to it or not.

Mr. McDONALD. We are absolutely opposed to this legislation, and not only to the original legislation but to the so-called compromise bill.

The CHAIRMAN. I understood you to say that you thought there was no hope of your being able to sit down among yourselves and coming to a consolidated agreement that you all together could submit to this committee.

Mr. McDONALD. The matters involved are such that they are diametrically opposed.

The CHAIRMAN. That, in my mind, resolves itself into this, that we must go ahead and legislate here without the assent of the people whom you claim to represent.

Mr. McDONALD. May I suggest that this matter is of such importance that it should not be disposed of hastily; and I offer it as my opinion that either this committee or a subcommittee should first visit Minnesota before it is disposed of and familiarize itself with the situation there by coming in direct contact with it. Now, there will be a meeting of the incorporated council, I think, some time in July, and the meeting of the other council is fixed for some time early in July, and the representatives of this committee can appear at the meetings of both councils, and they could thus learn at first hand how many are in the voluntary association, who they are, what they represent, and what their ideas are; and they could also obtain similar information concerning the other association, if you please.

Mr. RHODES. If you feel that your faction can amass so many more of the Chippewas, why did you not get them together at the election and control the council itself? Why did you feel that you had to go off into a separate organization when you represent such a

majority of those who have the right to elect? Why did you not go ahead and control the machine?

Mr. McDONALD. I am prepared to go into that in detail.

Mr. RHODES. It looks to me as if it could have been a very easy matter at the time.

Mr. McDONALD. I will ask permission of the chairman to do that right now.

The CHAIRMAN. You have the floor.

Mr. RHODES. Do you have any connection with the group of Chippewas that came here about a month ago and had a hearing?

Mr. McDONALD. I have no connection with them at all.

Mr. RHODES. Which faction did they represent, yours or the other?

Mr. McDONALD. If you have reference to Mr. John Parker and Mr. Lovegans I can state who they are, and they are here now representing the opposition to this legislation and the opposition to what I will term the "Morrison Council."

Mr. RHODES. They said at that time that they wanted to advance some preliminary propositions and that they would be prepared later to make some arguments, and we understood that this whole thing would be thrashed out at that time.

Mr. McDONALD. That is what I understood.

Mr. RHODES. Let me ask you another question that must imply some misgivings as to the weight of your argument, because you must assume that this committee is fair-minded, open-minded, and wants to do justice. Do you feel that it is the proper thing for you to refrain from putting the whole matter before us—if that is your purpose—unless you feel that anything this committee does, or any legislation that is passed, will be barred from the legal standpoint and that you want to keep yourself in a position to attack the legality of any legislation that is passed? Is that your view?

Mr. McDONALD. No.

Mr. RHODES. I do not see why you do not want to present your full case here.

Mr. McDONALD. We intend to do so. I did not want to convey in answer to the chairman's question that I did not want to go on. The chairman asked me the pointed question if I thought the matter ought to be suspended and I stated that I thought so, but we are prepared to go on, and we think we can satisfy this committee that nothing in the shape of legislation should be enacted that will not be fair to all the Indians of Minnesota.

The CHAIRMAN. Then, if you are prepared to give testimony as a witness we can now go ahead with the hearing and listen to you when the proper time comes.

Mr. HAYDEN. Why did you think the committee investigation ought to be suspended?

Mr. McDONALD. Well, the committee would be in much better shape after this decision is rendered in the district court. That is the only reason I know of for that. Then legislation can be shaped accordingly. There are two organizations, and in your legislation you may want to recognize that fact the same as we hope the Bureau of Indian Affairs may recognize that fact. There ought to be some bureau, or some man somewhere to whom such questions can be presented and who would decide as to whether or not the so-called

"Morrison Council" represents all of the Indians or whether or not there are two associations, or whether or not either of them represent the Indians, or perhaps the better way would be to have somebody that could say there were two organizations representing two distinct factions.

Mr. HAYDEN. Do you not think it would be a pretty good idea before you started upon this independent course to try out the regular procedure of sending your credentials to the Indian Bureau and asking for recognition. You surely are acquainted with the Indian Bureau and know what their general functions are. You assume here to be somewhat ignorant of what their duties are.

Mr. McDONALD. I would not want to put it that I am ignorant of it, but I am not fully advised of what the practice is in the Indian Bureau.

The CHAIRMAN. Perhaps Mr. Meritt can give us some inside facts and I will ask him to make a brief statement. If his statement does not agree with your ideas you of course have permission to ask to be heard.

Mr. MERITT. Mr. Chairman, this controversy this morning illustrates the difficulty of administering Indian affairs. There usually are two factions on every Indian reservation. The Chippewa country is no exception to that rule. These factions have complained of each other for a good many years. The Indian Bureau has had considerable trouble in getting these factions together. The two different factions here have held meetings at different places in the Chippewa country. Inasmuch as the bureau was charged with the responsibility of administering the Chippewa affairs we tried to get these two factions together in one convention, and it was agreed by the representatives of both factions while here in Washington that on June 17, 1919, an election would be held for delegates to attend the general council to be called at Cass Lake, Minn., and that the general council should be held at Cass Lake on July 8 of last year. There was a meeting held at that place on that date. What is known as the mixed-blood faction among the Chippewas were in control of the meeting, and the full-bloods were out-voted at that meeting.

Mr. HASTINGS. Was that meeting well advertised in advance?

Mr. MERITT. It was well advertised. We wrote letters to the various superintendents and the Indians were advised in person, and I think it will be conceded that it was generally known in the Chippewa country that that meeting was to be held. As a result of that meeting the Indian Bureau recognized what is known as the "Morrison faction" among the Chippewas, and the Commissioner of Indian Affairs under date of August 28, 1919, wrote Mr. John G. Morrison, jr., Red Lake, Minn., this letter: "Dear Mr. Morrison: I am in receipt of a copy of the minutes of the meeting of the general council of Chippewa Indians of Minnesota, held at Cass Lake, Minn., July 8, 1919; also reports from Supt. Walter F. Dickens and Supervisor L. F. Michael who attended this council at my request. I have given this matter very careful consideration and hereby recognize your election as president of the council; Paul H. Beaulieu as secretary thereof, and the organization effected thereby, under the constitution and by-laws of the Chippewa Indians of Minnesota. I exceedingly regret however, to note from the record that the factional differences among the Chippewa Indians were not adjusted at this council and a com-

promise effected, so that this election would be an expression of the entire Chippewa Tribe. Sincerely yours, Cato Sells, Commissioner."

Mr. HERNANDEZ. Are the different agencies of the tribe represented in this council?

Mr. MERITT. Yes, sir.

Mr. HERNANDEZ. Representatives of each and every one of the tribes are in this council?

Mr. MERRITT. Yes, sir; except Red Lake. Now, on June 2, 1919, the Commissioner of Indian Affairs sent a telegram to the different superintendents in the Chippewa country. This telegram reads as follows:

After conference here with representatives all factions Chippewa Indians, it has been decided to adjourn the elections of delegates of both factions, proposed to be held to-morrow, June 3, until Tuesday, June 17, 10.30 a. m. when delegates will be elected to the general council to be held at Cass Lake Tuesday, July 8, 10 a. m. Said delegates shall be elected on the basis of one delegate for each 100 Indians or fraction thereof on each reservation and ceded reservations. You will notify immediately the Indians of your reservation of this action and direct them to be governed accordingly. The adjourned place of election on the White Earth Reservation shall be held in the pavilion at Pinehurst. You are also directed to be present on the day of election and see that it is conducted fairly and honestly.

There are other telegrams of the same import. You will remember, Mr. Chairman, in my opening statement I was asked if we recognized the general council of the Chippewa Indians represented at this meeting, and I stated that we had recognized the General Chippewa Council, but we did not recognize that they were the controlling factors in administering the affairs among the Chippewa Indians.

Mr. HAYDEN. As I understand it, you have recognized one of these councils as the official head of the Chippewa Indians in Minnesota; is that true?

Mr. MERITT. Yes, sir.

Mr. HAYDEN. Now, how much trouble would it be for you to enter into or negotiate an agreement with this council and then submit, not the election of another council to the Chippewa Indians, but the ratification of that agreement?

Mr. MERITT. I think that would be an unwise way to deal with the Chippewa situation, from my experience with Indian affairs in the Chippewa country.

Mr. HAYDEN. Why so?

Mr. MERITT. Because there is so much prejudice and factional feeling among the Chippewa Indians that a large number of the Chippewa Indians would resent the action of the Indian Bureau in negotiating an agreement with the general council of the Chippewa Indians.

Mr. ELSTON. That question of the recognition of the council by the bureau, as I understand you, has already been settled by the bureau, has it not?

Mr. MERITT. We have recognized them as the general council, but we have not gone so far as to make an agreement with them, nor would we do that under the present conditions.

The CHAIRMAN. But you have continued to do business with the other Indians up there in addition to the general council that you recognized?

Mr. MERITT. Yes, sir.

Mr. ELSTON. If you negotiated this agreement with this council, then the question would be presented to the Chippewas, not of ratifying the council, but of the action by the council?

Mr. MERITT. I would see no objection to this action being taken. Have the Indian Bureau and the general council of the Chippewa Indians and the other faction of the Chippewa Indians get together and endeavor to reach an agreement on legislation and come before the committee and thrash this matter out. Congress, after hearing all sides, could pass such legislation as it deemed wise to meet the conditions in the Chippewa country, and then have that legislation not become effective until approved by a majority of the adult male and female members of the Chippewa Tribe of Indians in Minnesota.

Mr. ELSTON. Now, the only difference between that and the proposition I have presented, as I understand it, is this, that in your negotiations as you proposed you will undertake to deal with both factions, and the proposition I made was to deal with that faction which the department has already recognized. Of course, the committee has no interest whatever in either of these factions and only wants to do that which is best for the entire tribe, as the bureau wants.

Mr. MERITT. That is exactly our position.

Mr. ELSTON. But from statements made before the committee it appears to me that there is not much possibility of getting these two factions together in the writing of an agreement, but if you could negotiate an agreement with one faction or the other, whichever you recognize, having in view all the time that you had votes to ratify the agreement, I take it that the bureau would look after the interests of those who were not represented, not the council, and that being the case, would try to negotiate an agreement which would be acceptable to all factions.

Mr. MERITT. I think it would be very unwise for the Indian Bureau to attempt at this time to negotiate an agreement with the general council of the Chippewa Indians.

Mr. ELSTON. As I understand you, you think that no agreement should be undertaken unless it is undertaken with all factions?

Mr. MERITT. I would not even attempt to negotiate with all factions under present conditions. I would attempt to work out with all factions the necessary legislation and permit all factions to be heard, and then, if it is the wish of Congress, to have a majority of the male and female members of the Chippewa tribe approve that legislation before becoming effective.

Mr. ELSTON. That is what I understand your position to be.

The CHAIRMAN. I think that is the only thing that can be done. As chairman I will say that I am disappointed, because I expected that this legislation proposed here would be based upon a consolidation of the views of all of the parties, and that was my understanding when you left here six weeks ago, that at the hearing called on the 8th of March, after hearing all the parties, after hearing all the interests, you would get together and come here with an agreement. Apparently negotiations have been carried on only with the recognized council and the bureau.

Mr. MERITT. Not at all, Mr. Chairman. We have carried on negotiations with all of the factions here in Washington.

The CHAIRMAN. Have you dealt with anybody who claimed to represent the people that the gentleman whom we have been hearing this morning claims to represent?

Mr. MERITT. Yes, sir, we have had a conference with them.

The CHAIRMAN. Did you find them to be in the same frame of mind with regard to an agreement that the gentleman conveyed to us this morning?

Mr. MERITT. Unfortunately a number of those Indians were not in a position to state what they wanted. They did not know exactly what they wanted. Now, the principal objection that has been pointed out this morning to this bill is found in section 3, where the general council attempted to get legislation so that they would have authority to convey certain land. If you will note the draft that we submitted, we struck out that provision and placed the authority in the Secretary of the Interior, so we have corrected in this bill the chief objection raised by the attorney, Mr. McDonald.

The CHAIRMAN. Well, now, with that explanation, and one other, so far as the chairman is concerned, we can go ahead with the hearing. I want you to explain what effect this suit that has been started, in case it should be decided in favor of the plaintiffs, would have upon any legislation that we may have adopted in the meantime.

Mr. MERITT. I think the litigation would not have any effect upon the legislation, and the legislation you propose would also not have any effect on who should at any future time control the general council. That is in the hands of the Chippewa Indians, and if one faction wins this year it would not prevent another faction winning next year. This legislation would not have any bearing upon that question.

The CHAIRMAN. From your knowledge of the action that has been started, is there anything in it that would vitiate any action now taken by the present council? Would it have the effect of defeating any action that we took here now with the council as a legal entity to-day?

Mr. MERITT. I think not.

Mr. HERNANDEZ. It seems to me like the disputed point in this controversy between the regular council as it was elected and this insurgent council is that they are afraid if this legislation is enacted this council that is now recognized by the bureau will have the selection of one of these commissioners.

Mr. McDONALD. The matter of that election that Mr. Meritt refers to is set up in this complaint, and we answer these allegations relating to that particular election; and our allegations in the original answer, which I have here, and these allegations, stand admitted so far as the pleadings are concerned. That whole subject is involved in this action.

The CHAIRMAN. Well, now, with Mr. Meritt's brief statement that the court action would have no effect upon any action we take here, we will, with that understanding, proceed with the hearing if it is agreeable to the other members of the committee.

Mr. CARTER. I think we might continue, Mr. Chairman. I have not heard enough of the hearing.

Mr. ELSTON. I think we might continue, Mr. Chairman.

Mr. RHODES. I recall that you said, Mr. Meritt, that there was some merit in the contention of these insurgent Indians as against the regulars. I understood this morning that you recognized the regular council. Now, just how far in the management of the affairs of the tribe have you recognized this regular council?

Mr. MERITT. I don't think you understood me correctly. The impression I intended to convey to the committee was that the general council was the duly authorized council among the Chippewa Indians, but that there was a large number of Indians that were not in sympathy with the general council, and that the general council was making recommendations for administrative and legislative matters that the insurgents did not approve of in all particulars.

Mr. RHODES. That is all perfectly clear, but what I was getting at primarily was this, would you not think that the failure of the department to give its unqualified support to the general council only tends to encourage both factions and to prolong the controversy?

Mr. MERITT. We recognize that there is a serious difference of opinion among the Chippewa Indians, and, representing all of the Chippewa Indians, we feel that it is our duty to hear all the Chippewa Indians, at the same time recognizing the Chippewa General Council.

Mr. RHODES. That statement is too general to accomplish any definite results. The knowledge of the bureau must be such that the bureau has a definite opinion. It would be unthinkable to conceive that after all the years of administration of the affairs of the Indians of this country that the bureau to-day is without definite knowledge as to who should prevail in a controversy of this character.

Mr. MERITT. We have that knowledge.

Mr. RHODES. Just a moment. From what I have observed, it would appear that there is a substantial controversy between these factions, and that the department has recognized a legally constituted body as both a de facto and de jure body. After all, you go on encouraging these irregulars to the extent that the result is indecision and a prolonged controversy. Now, I should like to know if you have a definite opinion which you will express to this committee as to the merits of this controversy. If there is no substantial merit on the part of these insurgents, then why not recognize the action of the so-called regular council for all purposes in handling the affairs of the tribe? As I understand the proposition the other day it was a sort of dual controversy as between the department, which you represent, and Mr. Ballinger, whom I assumed represented the regular council. This morning another gentleman appears and expresses very positive views, which resolves the question into a triangular proposition, with a good deal of doubt, so far as I have been able to see, as to who is right and who is wrong. Now, it is the intention of the department, I hope, to lend its good offices in such a way as to assist this committee in reporting legislation that will solve the trouble. Is that correct?

Mr. MERITT. That is in line with our intentions, and it is in line with our actions, as evidenced by the bill that we have taken great pains to redraft and which has been submitted to the committee for its consideration.

The CHAIRMAN. But we are up against this proposition, that while you and the representative of the general council agree upon two-thirds of that legislation we have to listen to the third element who say that they are opposed to the whole thing.

Mr. MERITT. There is a faction among the Chippewa Indians that will oppose anything that is advocated by the present general council of the Chippewa Indians.

Mr. RHODES. As a practical proposition, and as a member of the committee, disinterested and with only one object in view, and that is to accomplish substantial results in the interest of the tribe, I feel like insisting that the department take a positive position, and then as a member of the committee I should like to hear what each faction has to say and work out something tangible. I do not want to see this controversy go along in an indeterminable sort of way. I am bound to confess that I have seen indications that there might be a disposition on the part of some parties connected with this controversy to rather trifle with this committee. So far as I am concerned I do not want to be a party to encourage any such disposition. If certain members of this tribe, either of the regular or insurgent bands do not know positively what this legislation is leading to I am certain the department does. We ought to have a definite and positive defining of the issues, and then govern ourselves accordingly.

Mr. MERITT. Mr. Rhodes, that is exactly the position the department has taken. We have taken a positive position as to who constitutes the general council of the Chippewa Indians of Minnesota, and we have also taken a positive position as to what legislation should be enacted by Congress, and we have submitted that legislation here in concrete form.

Mr. RHODES. But, as a matter of fact, your failure to adhere to the regular council, or, rather, in giving your unqualified support to the regular council, would encourage these bands of insurgents, which results in prolonging the controversy.

Mr. MERITT. Not at all. We are not encouraging insurgents. That insurgency has been in the Chippewa country for years, and regardless of what action this committee or the Indian Office takes, that insurgency will still exist in the Chippewa country. It is impossible to bring them together.

Mr. RHODES. The result must be that you must reach the point of decision and make the decision, or the controversy is unending.

Mr. MERITT. We have reached the point of decision, and we have made that decision, but we can not control the Indians composing the actions in the Chippewa country. That is beyond our control and beyond the control of Congress.

Mr. RHODES. It may be beyond your authority to control this insurgent band, but, Mr. Meritt, it seems to me, with specific statutory authority, without some proof, I should be slow to accept your statement on that proposition. I thought the Indian Bureau was clothed with sufficient authority to control all factions.

Mr. MERITT. You are mistaken about that. The Indian Bureau can not control factions on the Indian reservations. There are factions on every Indian reservation in this country.

The CHAIRMAN. Have you expressed here your views fully? The chairman would like to have you express your views in as few words as possible as to the real issues between these two factions, aside from all legal technicalities.

Mr. MERITT. We have expressed, I think, very clearly the differences between the Red Lakes and the Chippewas outside of the Red Lake and what they are contending for. The principal and big difference between the Indians in the Chippewa country is the legal question

as to title to lands within the Red Lake Reservation. The General Council of the Chippewa Indians takes the position that after the Red Lake Indians have been allotted on the Red Lake Reservation the surplus lands and property belong equally to all the Chippewa Indians; whereas the Red Lake Indians take the position that the entire Red Lake Reservation belongs to the Red Lake Indians and that the Indians of the other reservations have no right whatever to that property.

The CHAIRMAN. Well, then, to that extent the insurgents, so called, are sided with the Red Lake interests.

Mr. MERITT. I have not heard them express themselves on that point and I would prefer to have them express their own position.

The CHAIRMAN. We thought we possibly might get a little better view of how the bureau looks upon this controversy. Now, I think we better go on with the hearing, unless there is something pertinent some one wishes to ask at this point.

Mr. BALLINGER. I do not like to interrupt the hearing, but you have asked questions and some of the other members of the committee have asked some questions as to the real cause of this controversy. If you will permit me for two or three minutes, I want to state the real cause of the controversy between the gentlemen represented by Mr. McDonald and the members of the tribe represented by the general council.

The CHAIRMAN. Mr. Ballinger, that would be largely the view of one side of the controversy.

Mr. BALLINGER. Yes.

The CHAIRMAN. I asked the question of Mr. Meritt because he would have a neutral view of the situation, and I think we better wait for that.

Mr. MERITT. Mr. Chairman and gentlemen of the committee, on yesterday, at the conclusion of the very able and careful statement of Mr. Ballinger for the General Council of the Chippewa Indians, I followed with a short statement, when the time for adjournment was reached. In my statement yesterday I pointed out the very great frauds that had been perpetuated on the White Earth Reservation from legislation enacted by Congress. I had also pointed out that Mr. Ballinger was mistaken in his contention that the Indian Bureau was responsible for the legislation enacted in 1916, which set aside a forest reserve on the Red Lake Reservation. I also pointed out that the forest reserve created in the Chippewa country by the act of 1908 was not the result of legislation requested by the Indian Bureau. Mr. Ballinger laid great stress upon the fact that the agreement of 1902 and the resulting act of 1904 relating to the Red Lake Reservation was initiated by the Indian Bureau, and that Congress and the other Chippewa Indians were not responsible for that legislation.

I want to bring to the attention of the committee this morning some information that has not been brought out heretofore, which shows clearly that the Indian Bureau did not initiate the agreement with the Red Lake Indians resulting in the act of 1904 where Congress specifically recognized the rights of the Red Lake Indians to the entire Red Lake Reservation. This matter was first initiated by the citizens of Deep River Falls, Minn., and those citizens sent to Washington their mayor, Mr. Fred H. Kratka, who addressed a letter to the Secretary of the Interior under date of January 30, 1902, asking that a part

of the Red Lake Reservation be opened for homestead settlements. For the information of the committee I will ask that this letter be incorporated in the record.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The letter is as follows:

WASHINGTON, D. C., January 30, 1902.

Hon. E. A. HITCHCOCK,

Secretary of the Interior.

DEAR SIR: The undersigned would respectfully represent that he has been authorized by the Council of Thief River Falls, Minn., to present this petition: that the western portion of the diminished Red Lake Indian Reservation lying in the vicinity of Thief River Falls, including all that portion west of the westerly line of Beltrami County, is composed entirely of agricultural and grass lands, containing in all about 11 townships; and that there is no pine timber upon any of said land; that said tract of land is occupied only by a few small bands of Indians, roaming about from place to place; that the opening of the lands to actual settlers, placing them in the hands of thrifty husbandmen, would be conducive to the best interests of the whites and Indians alike; and he therefore respectfully suggests that you appoint an Indian inspector to negotiate with the Indians upon the diminished Red Lake Indian Reservation, with the understanding that the moneys derived from the sale of same be devoted exclusively to the benefit of said Red Lake Indians, or the cession of all lands west of the westerly line of Beltrami County, to be subject to entry under the homestead laws of the United States: *Provided*, That the settler pay a price per acre not exceeding the price that the Government pays the Indians therefor; and respectively suggests that the authority to do so is found upon page 1077, No. 31, Statutes at Large of the United States. He further represents that there being no pine upon these lands, the opening of these lands is entirely separate and disconnected from any question involving the opening or other disposition of lands in Minnesota upon which there is standing pine timber.

Very respectfully, yours,

F. H. KRATKA.

Mr. MERITT. Accompanying that letter was a statement from Senators and Representatives then in Congress from the State of Minnesota urging that the request of Mr. Pratzgar be given consideration. That statement, signed by the Senators and Representatives from the State of Minnesota, reads as follows:

We, the undersigned Members of the Minnesota delegation in Congress, beg leave to suggest that we are well acquainted with Mr. F. H. Kratka, who is Mayor of the city of Thief River Falls, in the State of Minnesota; that we are advised, of our own knowledge, that he represents not only the sentiments of the city of Thief River Falls but of the people generally in that vicinity; and most heartily indorse and recommend his request to have the lands upon the diminished Red Lake Indian Reservation west of the westerly line of Beltrami County thrown open to settlement under the homestead laws of the United States.

Very respectfully, yours,

KNUTE NELSON.
MOSES E. CLAPP.
PAGE MORRIS.
FRANK M. EDDY.
L. FLETCHER.
JOEL P. HEATWOLE.
J. A. TAWNEY.
F. S. TEVENS.
J. F. McCLEARY.

Mr. MERITT. This paper is of very great importance in this controversy because it shows conclusively that Mr. Ballinger was mistaken in his statement to the committee that the Indian Bureau initiated this agreement and this legislation; and I have already pointed out that Mr. Ballinger was mistaken also in his statement to this committee that the Indian Bureau was responsible for the

legislation contained in the Indian appropriation act of 1916, wherein Congress recognized the rights of the Red Lake Indians to the property on the Red Lake Reservation and established a forest reserve.

Mr. DALLINGER. To whom was that letter addressed?

Mr. MERITT. It was addressed to the Secretary of the Interior, or, rather, it accompanied a letter addressed to the Secretary of the Interior.

Mr. DALLINGER. Do I understand that as a result of that letter the Secretary of the Interior, with the knowledge or at the suggestion of the Indian Bureau, recommended legislation to Congress?

Mr. MERITT. As the result of this petition and this request of the Senators and Representatives of the State of Minnesota the Interior Department sent Inspector James McLaughlin to the Red Lake Reservation and negotiated an agreement with the Red Lake Indians, which was confirmed by Congress by the act of 1904, which I have placed in the record.

In order that the committee might have the letter of instructions to Maj. McLaughlin before it I will read it for the information of the committee. This letter is headed "Department of the Interior, Office of Commissioner of Indian Affairs," and is dated "Washington, February 12, 1902." You will note here that the letter of Mr. Kratka is dated January 30, 1902, and the letter that I am going to read is dated February 12, 1902, two weeks after the receipt of the letter:

Land.
9162-1902.

FEBRUARY 12, 1902.

JAMES McLAUGHLIN, Esq.,
United States Indian Inspector.

SIR: You are advised that the Secretary of the Interior on the 10th instant designated you to negotiate with the Red Lake and Pembina bands of Chippewa Indians of Minnesota for the cession of some 11 townships of land in the western portion of their reservation, under the provisions of the act of Congress of March 3, 1901 (31 Stats., 1077). The section of the act referred to provides as follows:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to negotiate, through any United States Indian inspector, agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress."

The Secretary of the Interior has also directed this office to prepare proper instructions for your guidance in conducting said negotiations.

In obedience to this direction the following instructions are given you:

The diminished Red Lake Reservation as it now exists was created by agreement with the Indians under the provisions of the act of Congress of January 14, 1889 (25 Stats., 642). It contains about 800,000 acres. It is proposed for you to negotiate with said Indians for the cession and relinquishment of some 11 townships of land comprising the western portion of the reservation. The exact area and description of these lands can not now be stated. The negotiations with the Indians will determine the boundaries of the lands to be ceded; after the boundaries are known the area can be ascertained. The tract ceded, however, should lie in compact form and should comprise the western portion of the reservation.

The negotiations should be conducted, in the first place, for the purpose of ascertaining whether or not the Indians are willing to dispose of any portion of their reservation, and if so, to secure their consent and agreement to the cession of that portion of the reservation referred to, provided satisfactory terms and conditions can be agreed upon. The consideration to be paid the Indians should be a definite, fixed sum, based upon the number of acres included in the cession, the same to be paid the Indians in cash or to be expended for their benefit, as may be determined by the negotiations. It is not necessary that the entire cash consideration shall be paid in

one payment; provision may be made for its payment in from one to ten or more annual installments, as may seem best. The price to be paid should be just and fair, both to the Indians and the United States.

None of the Indians of the Red Lake Reservation have received allotments in severalty. According to the census report of June 30, 1901, they number 1,366. The number of adult males can be obtained from the United States Indian Agent, Leech Lake Agency. There are some 20 or more Indian families residing upon the portion of the reservation for which negotiations are to be conducted. Some suitable and satisfactory provision should be made respecting these Indians, either by allotting them lands where they now reside or by purchasing their improvements and removing them to the retained portion of the reservation. It is only deemed necessary to call your attention to the matter to insure satisfactory provision for these families. The wishes of the Indians residing on the portion of the reservation it is proposed to cede should have very great weight in determining what disposition shall be made of them.

In arranging for the disposition of the proceeds arising from the cession of the lands, the special needs of the Indians should be very carefully considered. If a part of the consideration can best be expended annually by the Secretary of the Interior for the benefit of the Indians, such provision should form one of the important articles of the agreement. The amount of cash that shall be paid annually should also receive very careful consideration. Much, however, must be left to your discretion and the wishes of the Indians.

One article of the agreement should provide that it must be ratified and confirmed by Congress before it becomes binding, either upon the Indians or the United States.

You are hereby authorized to employ an interpreter and stenographer to assist you in conducting the negotiations. Acting Agent Scott of the Leech Lake Agency, will be directed to provide subsistence for the Indians when in council considering the negotiations.

Minutes of all council proceedings should accompany your report under these instructions, whether an agreement with the Indians is concluded or not.

Should you be able to conclude an agreement with the Indians one which you think would promote their interest and welfare—the same should be reduced to writing and executed in proper legal form for acceptance and ratification by Congress. It must contain the signatures of a majority of the adult male Indians residing and belonging upon the reservation. The signatures should be "under seal" and should be properly witnessed. The agreement must also be signed by yourself as United States Indian Inspector, the signature being properly witnessed. The signatures should be followed by proper certificates of the interpreter and the United States Indian agent, the latter to the effect that the Indians signing constitutes a majority of the adult male Indians of the reservation.

Proper instructions will be given the United States Indian agent of the Leech Lake Agency relative to subsisting the Indians while in council and relative to cooperating with you in conducting the proposed negotiations. Should you desire further information, the same should be called for; or should you desire further instructions upon any point you should ask for the same.

Upon the conclusion of the negotiations, whether successful or unsuccessful, you will make full report of your actions under these instructions to the Secretary of the Interior.

You will, accordingly, as early as practicable, after the receipt of these instructions, and under directions of the Secretary of the Interior, proceed to the Red Lake Reservation for the purpose of conducting the negotiations herein contemplated.

Very respectfully,

W. A. JONES,
Commissioner.

DEPARTMENT OF THE INTERIOR,
February 14, 1902.

Approved:

E. A. HITCHCOCK,
Secretary.

Mr. ELSTON, Mr. Chairman, it appears to me that that communication was an interpretation by the Indian Bureau as early as 1902 of the title to the whole of that diminished Red Lake Reservation, inasmuch as it distinctly recognizes in that communication that no one but Red Lakes have anything to do with the disposal of any part of that 700,000 acres, and that only they are to be considered and that when the agreement has been made by them and ratified by

Congress, the whole thing is settled. Now, I would like to ask if the Indian Bureau has followed the interpretation of that letter ever since.

Mr. MERITT. We have. It has been the position of the Indian Bureau long prior to the act of 1904 and ever since that the Red Lake Reservation belonged exclusively to the Red Lake Indians.

Mr. ELSTON. Of course, this letter was written before the act of 1904 and it practically compels the act of 1904 by having initiated proceedings which look forward to that act. It is perfectly obvious that if this agreement was consummated the concluding part of the paragraph would be the act of Congress, which it mentioned there. Now, was there any legislation previous to 1902, the date of this letter, that disposed of the bureau to make the decision which that letter carries, that the Red Lakes, and the Red Lakes alone, have the title to that 700,000 acres?

Mr. MERITT. Yes, sir.

Mr. ELSTON. What was it?

Mr. MERITT. The proceedings in connection with the agreement which was confirmed by the Nelson Act of 1889.

Mr. ELSTON. Now, the act of 1889, of course, provided for negotiations for an agreement by which the diminished reservation should be created?

Mr. MERITT. Yes, sir.

Mr. ELSTON. And the remaining lands of the Red Lake Reservation shall be disposed of for the general benefit of the whole of the Chippewas, is the text of the act of 1889 itself, or something else?

Mr. MERITT. The conversation between the Indians and the commissioners who were sent to negotiate the agreement reads otherwise and for the information of the committee I will read three short paragraphs. The proceedings of the council from which I am now reading were dated July 3, 1889, and were held by the Red Lake Indians: Ah-Nuh-Ne-Ay-Ge-Shig said: "My friends," speaking to the Indians—

Mr. DALLINGER. Who was he?

Mr. MERITT. He was a Red Lake Indian. He was talking with the commission sent out there to negotiate with the Chippewa Indians.

Mr. RHODES. What page is that on?

Mr. MERITT. Page 71 of Executive Document No. 247, House of Representatives, Fifty-first Congress, first session:

My friends, we understand all your meanings; we are not foolish; we understand the whole thing. We wish to bring out another objection; the money that you wish to have as a fund, which will originate the interest, whatever belongs to the Red Lake Indians, we do not want consolidated with the money of any other band. It is on the same principle that you have property; you get the worth of your property; you are not going to share with a neighbor what you get for your own property. That is the way we want to do with this. We are very much obliged to you for waking us up, so that you find our objections. At the present time the feeling is, that it is best to adjourn, and under this understanding, the minds are made up—maybe the minds of the people will change after this explanation, and I move that we adjourn.

This is on July 4, 1889, in council with the Red Lake Indians:

May Dway Gon On Ind said in part:

Another objection that we have to the act is the allotment part; that allotments should be made to us in severalty. We wish that any land that we possess should be not only for our own benefit, but for our posterity, our grandchildren hereafter. And then another objection that we have to the act is the consolidation of our interests, the

interests of the Red Lake Indians. We think that we should own in common everything that pertains to us; with those that are suffering in poverty, just the same as we are; that is a serious objection. We have heard from you the explanation of how the money was to be expended; we have not a clear insight into it. That is all I have to say at present.

Now, one of the commissioners representing the Government, Bishop Marty, made this statement, which was in the proceedings of the council of the Red Lake Indians under date of July 4, 1889:

Bishop MARTY. * * * Now, this reservation being yours, you must do with it as your advantage dictates, and for the advantage of the whole Chippewa Nation. I am a messenger of the Great Spirit, and I will say here what I would say anywhere: If one man has a little more than another he is bound to help his neighbor. If you have a little more and help your neighbors with it, God will bless you for it. Neither you nor your children will lose anything by it. I have been following that rule now for over 50 years, and I am very well off.

Mr. DALLINGER. Do I understand that the bureau bases its opinion in regard to the ownership in fee of that Red Lake Reservation on some remarks made by some Red Lake Indians and this bishop as against the clear language of the act of Congress itself? Those remarks were made by parties in interest, and they naturally would be expected to make statements of that sort in support of their own claim. I am asking whether the Indian Bureau when it made certain recommendations to Congress in 1904, on which the act of Congress was based, relied on such remarks as those you have just read rather than upon the language of the act of 1889.

Mr. MERITT. There is no specific provision in the act of 1889 which gives all the Chippewa Indians the right to the lands of the Red Lake Reservation; on the contrary there is a specific provision in the act of 1904 which recognizes the right of the Red Lake Indians to all of the Red Lake Reservation. There is also a specific provision in the act of 1916 which recognizes the right of the Red Lake Indians to the entire Red Lake Reservation.

Mr. DALLINGER. I understood from what Mr. Ballinger read here that there was something in the act of 1889.

Mr. MERITT. Therefore it was the duty of the Indian Bureau to follow the clear and expressed wording in the acts of Congress referred to, namely, the acts of 1904 and 1916.

Mr. DALLINGER. I think that, of course, merely means that it was the duty of Congress to follow the course of action that was determined upon by the bureau previous to either one of those acts and I think it would be proper to say so, because that letter you read to that inspector who went out there to negotiate this agreement, indicates that the bureau itself made this formal decision away prior to the enactment of these two acts on which you base now your adherence to that view. Now, was the decision of the bureau with respect to the title to these Red Lake lands based on anything else, either statements of Indians on the Red Lake Reservation who would naturally be presumed to be interested in making such statements, or did you have the opinion of the Solicitor of the Interior Department on the act of 1889 with regard to the title of these lands, or do you rest more on just those statements that you spoke of?

Mr. MERITT. I am not going into details as to that feature of the acts, because Mr. Henderson, attorney for the Red Lake Indians, will point out those details; but I am simply giving now in an off-hand and extemporaneous way the laws bearing on this subject and

the reasons why the Indian Bureau has taken its position. In that connection it may be interesting to note that one of the witnesses to the agreement with the Red Lake Indians is Mr. B. L. Fairbanks, who is a very able and distinguished member of the Chippewa Tribe and who perhaps is the wealthiest Indian in the Chippewa country, and he is here now, associated with the mixed-blood Indians of the White Earth Reservation who are attempting to get control of a part of the property which the Red Lake Indians themselves claim as their exclusive property.

Mr. DALLINGER. I understand when you were interrupted you were combating the contention of Mr. Ballinger that the Indian Bureau initiated the legislation of 1904.

Mr. MERITT. That is the point I attempted to make.

Mr. DALLINGER. As a matter of fact, while you have produced here a letter to the Secretary of the Interior, who is over the Indian Bureau, signed by two Senators and the Members of Congress from the State of Minnesota, did not the legislation originate in the Interior Department? The matter might have been called to the attention of the Department of the Interior by the Senators and the Members of Congress, but was not the bill drafted by the Interior Department or by the Indian Bureau, as a matter of fact?

Mr. MERITT. We initiated this matter after we had been requested to do so by the Senators and Representatives from the State of Minnesota.

Mr. DALLINGER. But you would not have done so simply because the Senators and Representatives of the State of Minnesota asked you to do so if you did not believe that it was the proper thing for the Indians?

Mr. MERITT. Why, we did believe that it was the proper thing for the Indians, and we had no objection to the action taken.

Mr. DALLINGER. So really it is a plea in confession and avoidance, when you stated that Mr. Ballinger misstated the matter, when he said that the bureau initiated the legislation?

Mr. MERITT. We initiated it by taking up the matter with the Red Lake Indians and procured an agreement with the Red Lake Indians at the request of the Delegates in Congress from Minnesota. My purpose in bringing this out at this time was to controvert the statement of the very able counsel for the Chippewa General Council, who was assisted in preparing that statement by the general council, and the Indians from the White Earth Reservation, two of whom are able Chippewa Indian attorneys, and two others are able, capable, and prosperous merchants in the Chippewa country. If the general council of the Chippewa Indians could have their way in connection with this legislation they would have this legislation so worded that the Red Lake Indians would be at a disadvantage. It is our purpose to protect the interests of the Red Lake Indians, and we have modified the draft of the legislation they have prepared so as to contain this provision:

SEC. 7. That nothing in this act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation, Minnesota.

Now, if we can get the bill as we have drafted it enacted by Congress, accompanied by the jurisdictional bill, it will place this whole controverted question in the courts so that it may be decided by the

Court of Claims, and if the parties are not satisfied with the decision of the Court of Claims they can take an appeal to the Supreme Court for final decision. It is not really necessary to thrash it out here. But Mr. Ballinger has at great length argued this proposition and laid the foundation to get the legislation that he wants in this bill, and I am now controverting that and pointing out that it should not be decided by Congress, but that it should be left for the courts to decide.

Mr. ELSTON. Is the bureau, meanwhile, taking action that goes on the theory that the Red Lake Indians own that 700,000 acres and to that extent making the Government of the United States liable for decisions made and distribution made, on that theory, or are you in the meantime, in view of the possibility that the general Chippewa Tribe will establish rights to those resources of the excess land, holding back any distributions under acts that would prejudice the United States later if the general tribe's rights should prevail over those of the Red Lake Indians? I think that should be an act of precaution.

Mr. MERITT. We recognize that the Red Lake Indians are entitled to the property within the Red Lake Reservation exclusively, following the act of 1904 and the act of 1916. We are quite willing that this question shall go to the Court of Claims for decision, and the department, of course, will conform to the final decision of the court.

Mr. ELSTON. Supposing the court should decide in favor of the general tribe and against the Red Lake Indians, what could be done by the bureau in the event of an interpretation of this law whereby the title of the Red Lake Indians will be brought into question and create a liability on the part of the Government?

Mr. MERITT. The Red Lake Reservation has not yet been allotted. The reservation is intact and the Government will be in a position to meet whatever decision is rendered by the court.

Mr. ELSTON. Even after the sale made under the act of 1904 and the distribution already made, will not the Government be liable?

The CHAIRMAN. There have been none.

Mr. ELSTON. There have been no sales made under the act of 1904?

The CHAIRMAN. No distribution to the Indians.

Mr. DALLINGER. Yes; there have.

Mr. ELSTON. There have been no sales under the act of 1904 to them, because you would have acted irrevocably on the theory of law that may prove erroneous. How much will we be liable for if the general Chippewa Tribe prevails? How much will we have to pay out?

Mr. DALLINGER. They figured a quarter of a million dollars at one time.

Mr. ELSTON. This is not a question of money alone.

Mr. MERITT. I would not like to say definitely the amount of money that is involved, but it will be in the neighborhood of a million dollars.

Mr. ELSTON. With the interest from the time it was paid.

Mr. MERITT. But, on the other hand, the Red Lake Indians are permitted to go to the Court of Claims with their claims against the Government. The Red Lake Indians believe that instead of them losing this case they will get a judgment that will give them not only the entire reservation, but a money judgment beside.

Mr. RHODES. Was that payment made under the act of 1889 or under the acts since that time?

Mr. MERITT. The proceeds from these ceded lands were paid out under the act of 1904.

Mr. ELSTON. You are evidently, in the things that are being done by the bureau, presuming that the Red Lake Indians are going to prevail in litigation, or you would not be making the distribution that you are making now, for fear that you would have to repay them. Would the Government be recouped on their payments to the Red Lakes, or would it be a mistake and the money paid them never be recovered?

Mr. MERITT. We would not discontinue administering the Indian affairs because of some alleged claims of Indians. It is our duty to go ahead and carry out the legislation enacted by Congress. On practically all these reservations the Indians have alleged claims against the Government. Pending the settlement of those claims we proceed in an orderly manner carrying out the laws of Congress and awaiting the determination of the litigation.

The CHAIRMAN. Is that all that you desire to ask upon this phase of the question? If so, Mr. Meritt can go ahead with his regular argument in rebuttal to Mr. Ballinger's testimony.

Mr. MERITT. Mr. Chairman, the statement was made by Mr. Ballinger that a large amount of the Chippewa funds were being wasted in the administration of the affairs of the Chippewa Indians and created the impression that it was impossible to get a statement of the financial affairs of those Indians. That statement, like a great many other statements that have been made in connection with Chippewa matters, is misleading. We submit to Congress annually a report showing exactly the amount of the moneys that are expended for administrative purposes and in order that the committees may have the information, and it shows exactly how the department expended the appropriations during the last fiscal year. I will ask that this short report be included in my testimony. It is found in House document No. 384, Sixty-sixth Congress, second session. This statement goes into detail, showing exactly how every dollar of the Chippewa funds are expended.

The CHAIRMAN. Without objection it is so ordered.

Mr. MERITT. The report referred to is as follows:

[House of Representatives. Document No. 384, Sixty-sixth Congress, second session.]

DEPARTMENT OF THE INTERIOR,
Washington, December 1, 1919.

SIR: In compliance with the provisions of the act approved May 18, 1916 (39 Stat.: 123-135), I have the honor to transmit herewith a detailed statement of expenditures from the tribal funds of the Chippewa Indians of Minnesota for the fiscal year ended June 30, 1919.

Respectfully,

ALEXANDER T. VOGELSANG,
Acting Secretary.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Statement of expenditures for the fiscal year 1919 from the tribal funds of the *Chippewa Indians of Minnesota*, as required by the act of May 18, 1916 (*39 Stats. L., 155*).

CHIPPEWA IN MINNESOTA FUND, PROMOTING CIVILIZATION AND SELF-SUPPORT, \$175,000 AUTHORIZED IN THE ACT OF MAY 25, 1918 (40 STATS. L., 578).

	Salaries, wages, etc.	Traveling expenses.	Trans- portation of sup- plies.	Telegraph and tele- phone service.	Station- ery and printing and med- ical and school- room supplies.	Subst- itence and clothing.	Forage.	Fuel, lu- bricants, etc.	Equip- ment and mis- cellane- ous ma- terial.	Repair and rent of build- ings.	Per capita and pro- rata pay- ments to Indians.	Miscella- neous.	Total.
Cass Lake School	\$204.00	\$27.58		88.80	801.88	\$2,987.08	\$454.45	\$315.17	\$393.48	\$87.84			\$4,510.08
Fond du Lac Agency	6,532.00	171.59	\$103.22	63.37	412.24	2,350.78	285.92	925.08	594.45	190.29		\$531.31	11,680.45
Fond du Lac Schools					132.80	1,328.91		397.03	118.71	28.81			1,539.88
Grand Portage Agency	1,047.50	145.50	5.55	17.16	219.33	1,046.74	413.45	21.00	75.28	36.00		61.64	3,089.17
Grand Portage School					6.43	174.19		493.08	16.10				3,092.80
Leech Lake Agency	10,775.06	1,361.70	387.41	22.15	629.92	1,348.35	970.47	2,313.06	547.52	39.76		561.00	18,917.62
Leech Lake Schools		65.70		10.70	11.11	1,338.64	242.89	517.32	145.00	39.76		53.55	2,424.17
Neeti Lake Agency	3,248.65	348.48	14.78	4.13	47.31	967.38	1,023.31	588.70	368.49	15.00		77.50	6,668.73
Neeti Lake School					132.16	750.02		442.61	186.90				1,511.69
Red Lake Agency	11,490.55	62.35	333.61	2.96	681.16	1,420.14	2,514.46	1,337.40	1,109.07			391.33	19,342.05
Red Lake Schools		8.03	351.31		31.62	8,130.36	1,804.28	3,036.01	390.02	86.83		131.10	14,066.56
Red Lake Mission School												5,292.00	5,292.00
Vermilion Lake School	425.00	5.00	68.14	49.73	270.51	3,878.23	1,185.34	3,243.77	480.68	33.28		194.85	9,825.03
White Earth Agency	17,942.77	736.70	2,980.53	200.23	963.58	8,365.27	1,745.41	2,443.97	1,191.14			52.10	36,651.70
White Earth Schools		35.80	569.23	4.30	608.68	18,942.87	1,958.67	9,343.64	1,177.95	57.96		31.13	26,886.46
Delegates, etc.		5,488.71											5,488.71
Total	51,700.62	8,517.88	4,813.77	384.95	4,299.75	46,019.96	12,068.15	25,320.85	6,794.69	576.77		7,367.71	168,493.10

CHIPPEWA IN MINNESOTA FUND CASS LAKE ROAD, UNEXPENDED BALANCE OF \$5,000 AUTHORIZED IN THE ACT OF MAR. 2, 1917 (39 STATS. L., 978), FOR BRIDGE AUTHORIZED IN THE ACT OF MAY 25, 1918.

Cass Lake School	\$3,717.78								\$282.22				\$4,000.00
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¹ Care and education of pupils.

Statement of expenditures for the fiscal year 1919 from the tribal funds of the Chippewa Indians of Minnesota, as required by the act of May 18, 1916 (39 Stats. L., 135)—Continued.

CHIPPEWA IN MINNESOTA FUND, INCREASE OF COMPENSATION.

	Salaries, wages, etc.	Traveling expenses.	Trans- portation of sup- plies.	Telegraph and tele- phone service.	Station- ery and printing and med- ical and school- room supplies.	Subsit- ence and clothing.	Forage.	Fuel, lu- bricants, etc.	Equip- ment and mis- cellane- ous ma- terial.	Repair and rent of build- ings.	Per capita and pro- rata pay- ments to Indians.	Miscella- neous.	Total.
Fond du Lac Agency.....	\$906.26												\$906.26
Grand Portage Agency.....	96.50												96.50
Leech Lake Agency.....	1,372.68												1,372.68
Neotoma Agency.....	438.99												438.99
Red Lake Agency.....	1,755.85												1,755.85
White Earth Agency.....	2,651.43												2,651.43
Total.....	7,221.71												7,221.71

CHIPPEWA IN MINNESOTA FUND, PURCHASE OF LAND FOR HOMELESS MILLE LAC INDIANS, \$40,000 AUTHORIZED IN THE ACT OF AUG. 1, 1914 (30 STATS. L., 591).

White Earth Agency.....												\$11,017.00	\$11,017.00
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CHIPPEWA IN MINNESOTA FUND, LOGGING OPERATIONS, ACT OF JUNE 27, 1902 (32 STATS. L., 400).

Leech Lake Agency.....	\$2,640.00												\$2,640.00
Superintendent of logging.....	3,744.67	\$1,909.96			\$0.48				\$0.95	\$540.00			6,204.06
Total.....	6,384.67	1,909.96			.48				.95	540.00			8,844.06

CHIPPEWA IN MINNESOTA FUND, COUNCIL AND DELEGATIONS, ACT OF MAY 26, 1918 (40 STATS. L., 573).

Council and delegations.....	\$850.00	\$1,430.16										\$1,000.00	\$3,280.16
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Fond du lac.....					\$143.07	\$143.07
Leech lake.....					130.60	130.60
Nett lake.....					65.30	65.30
White Earth.....					914.20	914.20
Various persons.....					210.92	210.92
Total.....					1,253.17	1,464.09

[illegible]

Care and education of pupil.

Chippewa in Minnesota fund:		
Civilization and self-support.....		\$168,485.10
Cass Lake Road.....		4,000.00
Increase of compensation.....		7,221.71
Purchase of land for homeless Mille Lacs.....		11,017.00
Logging operations.....		8,844.08
Per capita payments, refunds, etc.		1,464.09
Council and delegations.....		3,280.16
Interest on Chippewa in Minnesota fund.....		296,722.35
Total.....		501,044.47

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Mr. MERITT. There is also complaint of large amounts of funds that are being expended for administrative purposes. I want to point out to the committee that what they call administrative purposes is misleading because we are required by law to pay out this money, not only for school purposes, but for per capita payments, and they have got us charged up with the expenditure of the Chippewa funds for administrative purposes when we pay the money out to them per capita and when we are following the legislation enacted by Congress regarding the distribution of their funds, support of their schools, and so forth. In support of this statement, Mr. Chairman, I want to read into the record section 7 of the act of January 14, 1889:

That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expense of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of 5 per cent per annum payable annually, for the period of 50 years, after the allotments provided for in this act shall have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in the manner following: One-half of said interest shall, during the said period of 50 years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of 50 years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit, and at the expiration of the said 50 years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate for the purpose of promoting civilization and support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of \$90,000 annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of \$3,000,000, less any actual interest that may in the meantime accrue from accumulations of said permanent fund; the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live stock, teams, farming implements, and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest in cash; and whenever said permanent fund shall exceed the sum of \$3,000,000 the United States shall be fully reimbursed out of such excess for all the advances of interest made as herein contemplated and other expenses hereunder. * * *

I quoted this provision for the purpose of showing that we are required by legislation to do certain things in the Chippewa country, and we are doing these very things for the benefit of us. We make an annual report to Congress showing where every dollar of Chippewa funds is expended.

The CHAIRMAN. What allotment have you made under that provision? There have been no allotments made to the Red Lake Reservation. This does not require the distribution of moneys in the Red Lake Reservation.

Mr. MERITT. No, sir; this distribution shall be made on the Red Lake Reservation. I will explain later the reason for the distribution of moneys in the Red Lake Reservation.

showing that we are required by legislation to do certain things in the Chippewa country, and we are doing these very things for the benefit of us. We make an annual report to Congress showing where every dollar of Chippewa funds is expended.

What allotment have you made under that provision? There have been no allotments made to the Red Lake Reservation. This does not require the distribution of moneys in the Red Lake Reservation.

The CHAIRMAN. This is 31 years ago.

Mr. MERITT. I will explain that later.

The CHAIRMAN. As I understand it, the 50-year period does not commence until after those allotments have been made.

Mr. MERITT. Yes, sir; that is claimed, but not admitted.

Mr. DALLINGER. How was that act applied? I can not see how that act has any application.

The CHAIRMAN. It has no application up to this time in so far as winding up the agreements; it has not had any effect whatever, because no allotments have been made.

Mr. MERITT. We are educating the children and making per capita payments required, and we are promoting their civilization and self-support among the Chippewa Indians, and it would cost money to carry out those provisions.

The CHAIRMAN. Certainly you have been operating the business up there. I am not prepared to say that you do not operate it pretty well, but as to the winding up of this 50-year period, that has not begun.

Mr. MERITT. That is the contention that Mr. Ballinger made. That point has never been to my knowledge officially decided by any legal authority of the Government.

The CHAIRMAN. What is your opinion with regard to it? I have understood from your conversations here that you agreed with that statement.

Mr. MERITT. My opinion is that the Congress of the United States is not required to wait for the termination of the 50-year period to wind up the affairs of the Chippewa Indians.

The CHAIRMAN. That is, subsequent legislation could wind up this agreement?

Mr. MERITT. Congress can at any time in its discretion wind up the affairs of the Chippewa Indians before the expiration of the 50-year period.

The CHAIRMAN. But that winding up would not prevent objectors here from attempting to undo those proceedings, would it? It seems to me that is exactly the situation we are in here now. If this agreement had been carried out as it was originally planned in the legislation we would not be able to-day to attempt to straighten out the mix up. It looks to me that unless we can get all the parties to agree to this legislation that in a few years we will be right back where we are now—attempting to straighten out the question of difficulties we have created by new legislation.

Mr. MERITT. I think that Congress has absolute authority, as was pointed out by Mr. Hastings, to wind up the Chippewa affairs.

Mr. ELSTON. You were coming later to the point of making new allotments?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Proceed in your own way.

Mr. MERITT. Mr. Chairman, in addition to furnishing this annual statement regarding the affairs of the Chippewa Indians, the department under date of March 22, 1912, submitted a report to Congress regarding the funds and property of the Chippewa Indians of Minnesota. This report is entitled, "Report of the Secretary of the Interior, and the Commissioner of the General Land Office, on House Resolution 144, 62d Congress, relating to funds and prop-

erty of the Chippewa Indians of Minnesota, arising out of the sale of lands and timber under the act of Congress dated January 14, 1889, and acts amendatory thereto." This information is found in House Document No. 645, 62d Congress, second session. It is rather long and I will not ask that it be printed here but will give the document number for the information of the committee.

I point these matters out, Mr. Chairman and gentlemen of the committee, in refutation of the statement of Mr. Ballinger that it is difficult to get information in regard to the affairs of the Chippewa Indians.

Now, as to the allotments on the Red Lake Reservation and the reasons why allotments have not been made. There are several reasons why we have not yet made allotments on the Red Lake Reservation, the principal reasons being, first, the reservation needs to be drained before the lands are susceptible of cultivation; second, that part of the reservation is covered with very fine pine forests and if we should allot this reservation at this time we would be in a position of being compelled to give some Indians lands that could not be cultivated because they are not drained and, on the other hand, of giving the Red Lake Indians timber allotments that are worth anywhere from \$10,000 to \$25,000. That would be absolutely unjust to the Red Lake Indians. The Red Lake Indians have petitioned the department not to make allotments to them. It is true that there are a few of the Red Lake Indians who would like to have allotments but we must be governed in this matter by what is best for all of the Red Lake Indians.

Then, again, gentlemen of the committee, it is a well-known fact that there were great frauds perpetrated on the Indians of the White Earth Reservation. Their methods of perpetrating these frauds were to get the Indians allotted and then pass legislation removing the restrictions so that they could be deprived of their property. These same interests, certain lumbering interests and certain other interests, have been trying for years to get hold of the property of the Red Lake Indians. We have so far protected the Red Lake Indians in their property rights. To-day they own every foot of the land within the Red Lake Reservation, whereas on the White Earth Reservation, probably 80 per cent of the lands have passed from the ownership of the Indians into the hands of the white people and, as I have pointed out to you, there were great frauds in connection with the White Earth Reservation allotments and timber matters and the printed documents of Congress contain full information on this subject. There was an investigation in the years 1911 and 1912 by a congressional committee and it shows clearly the conditions that obtained on the White Earth Reservation at that time and it would be interesting reading for the members of this committee to look over these documents and see to what extent the land grafters and the timber thieves went in depriving the White Earth Indians of their property rights.

The CHAIRMAN. Right at this point, what is being done to-day with that property in order to get it in a position so that it can be allotted.

Mr. MERITT. Reports have been made as to the cost of draining the Red Lake lands. As you know, Mr. Chairman, during the war

it was absolutely impossible to get appropriations from Congress for work of that character.

The CHAIRMAN. But this situation has existed for 31 years.

Mr. MERITT. There is now pending before Congress legislation authorizing the drainage of that reservation and we are submitting a favorable report on that bill with certain modifications. We hope to get this reservation drained within the near future and we are also now selling the timber on that reservation.

The CHAIRMAN. You are selling it now?

Mr. MERITT. At this time.

The CHAIRMAN. On the stump or are you cutting it off?

Mr. MERITT. We are selling it to the International Lumber Co. under contract, and for the information of the committee, I will place in the record at this point our contract with that lumber company so that the terms of the contract may be available.

(The contract referred to is as follows:)

TIMBER CONTRACT, RED LAKE INDIAN RESERVATION.

This agreement made and entered into at the Red Lake Indian School, State of Minnesota, this 19th day of November, 1917, under authority of the act of Congress of May 18, 1916 (39 Stat. L., 123, 137), and the regulations and instructions for officers in charge of forests on Indian reservations, approved June 29, 1911, as amended March 17, 1917, between the Superintendent of the Red Lake Indian School, for and on behalf of the Red Lake Indians, party of the first part, and International Lumber Co., of International Falls, State of Minnesota, party of the second part.

Witnesseth: That the party of the first part, agrees to sell to the said International Lumber Co., party of the second part, upon the terms and conditions herein stated, all the merchantable dead timber, standing or fallen, and all the live timber marked, or otherwise designated for cutting by the proper officer of the Indian Service, estimated to be approximately 72,000,000 feet, board measure, log scale (approximately 65 per cent white pine, 27 per cent Norway pine, and the remainder of Jack pine, spruce, cedar, tamarack and balsam), located upon the designated area of approximately 51,300 acres as hereinafter described.

For and in consideration of the foregoing, International Lumber Co., party of the second part, agrees to pay to the superintendent of the Red Lake Indian School, State of Minnesota, for the use and benefit of the Red Lake Tribe of Indians, the full value of the said timber, as shall be determined by the actual scale of the timber as it shall be cut, at fixed rates per thousand feet, board measure, Scribner decimal C scale, which rates shall be as follows:

White pine.....	per M..	\$14. 10
Norway pine.....	do....	10. 25
Spruce.....	do....	10. 00
Tamarack.....	do....	5. 00
Cedar.....	do....	4. 00
Jack pine.....	do....	4. 00
Balsam.....	do....	3. 50
Cedar and tamarack railroad ties.....	each..	. 18
Spruce and balsam pulp.....	per cord..	1. 50
Cedar posts:		
7 feet long, 3 and 4 inch tops.....	per post..	. 015
7 feet long, 5 to 7 inch tops.....	do....	. 025
8 feet long, 4 to 7 inch tops.....	do....	. 04
8 feet long, 8 and 9 inch tops.....	do....	. 10
10 feet long, 4 to 7 inch tops.....	do....	. 05
10 feet long, 8 to 10 inch tops.....	do....	. 15
12 feet long, 4 to 7 inch tops.....	do....	. 06
14 feet long, 4 to 7 inch tops.....	do....	. 08
16 feet long, 4 to 7 inch tops.....	do....	. 09
18 feet long, 4 to 7 inch tops.....	do....	. 12

Cedar poles:

20 feet long, 4 to 8 inch tops.....	per pole..	\$0. 15
25 feet long, 5 to 8 inch tops.....	do.....	25
30 feet long, 6 to 8 inch tops.....	do.....	65
35 feet long, 6 to 8 inch tops.....	do.....	1. 35
40 feet long, 7 to 9 inch tops.....	do.....	2. 65
45 feet long, 7 to 9 inch tops.....	do.....	3. 95
50 feet long, 7 to 10 inch tops.....	do.....	4. 75
55 feet long, 7 to 10 inch tops.....	do.....	9. 00
60 feet long, 7 to 10 inch tops.....	do.....	10. 00

and International Lumber Co., party of the second part, further agrees to cut and remove the said timber in strict accordance with the following conditions and a regulations governing timber sales prescribed by the Secretary of the Interior:

1. The term "officer in charge," whenever used in these regulations, signifies the officer designated by the Commissioner of Indian Affairs to supervise timber operations on the Red Lake Reservation.

2. The sale includes an area of approximately 51,300 acres to be designated on the ground before cutting begins. The boundaries of the unit are definitely shown on the attached map, which is made a part of this contract, and are further described as follows:

Beginning at a point where the range line between ranges 35 and 36 west intersect the southern boundary of the Red Lake Reservation; thence east about $18\frac{1}{2}$ miles to eastern boundary of reservation; thence north $5\frac{1}{2}$ miles to shore of Lower Red Lake; thence west along shore line about $3\frac{1}{2}$ miles to line between sections 21 and 22, township 151 north, range 33 west; thence south three-fourths mile; thence west $1\frac{1}{2}$ miles; thence south three-fourths mile; thence west one-fourth mile; thence south one-fourth mile; thence west $7\frac{1}{2}$ miles; thence south 1 mile to township line between townships 150 and 151 north; thence west 6 miles to range line between ranges 3 and 36 west; thence south on said range line to place of beginning.

3. This contract will extend for a period of four years and eight months from November 15, 1917, or until July 15, 1922. The actual cutting of timber, other than for construction purposes, will begin on or before January 1, 1918. All timber on area badly injured by fire or storm will be paid for, cut, and removed prior to August 1, 1918, and not less than 15,000,000 feet will be paid for, cut, and removed during each 12 months succeeding October 15, 1918, unless the Secretary of the Interior shall relieve the purchaser from cutting this minimum amount during any specified period because of unusual conditions involving serious hardship in a compliance with such requirement. All timber covered by this contract will be paid for, cut and removed prior to June 15, 1922.

4. The timber will be paid for in advance payments of not less than \$10,000 each when called for by the officer in charge, except that the last payment in any logging season may be in a sum not less than \$2,500. The amount deposited with the accepted bid will be credited against the first payment. Payments for the timber shall be made to the superintendent of the Red Lake Indian School.

5. Only fallen, dead, and mature timber is to be logged under this contract. The question of what trees are immature will be determined by representatives of the Indian Service; but it is understood and agreed that approximately 80 per cent of the timber within the sale area is properly classifiable as fallen, dead, or mature and shall be cut under this contract.

6. No timber will be cut until it has been paid for and no timber will be removed from the sale area until it has been scaled and stamped by the officer in charge.

7. No timber will be cut except from the area specified by the officer in charge. No live timber will be cut except that marked or otherwise designated by the officer in charge. All dead timber standing or fallen, which is sound enough for lumber of any merchantable grade, and all green trees marked or otherwise designated for cutting by the officer in charge will be cut.

8. All merchantable timber used in buildings, skidways, bridges, construction of roads or other improvements, will be paid for at the contract price.

9. No unnecessary damage will be done to young growth or to trees left standing. Unmarked trees that are badly damaged during the process of logging will be cut as required by the officer in charge, and when such damage is due to carelessness, will be paid for at twice the price fixed by the contract. Unmarked living trees that are cut without the special direction of the officer in charge will also be scaled and paid for at twice the contract price.

10. Stumps will be cut so as to cause the least possible waste, and will not be cut higher than two-thirds the diameter of the stump, lower when possible, except if

unusual cases when, in the discretion of the officer in charge, this height is considered impracticable.

11. All trees will be utilized to as low a diameter in the tops as possible so as to cause the least waste, and to a minimum diameter of 6 inches when the tops are straight and sound; the log lengths will be so varied as to make this possible. All merchantable logs 10 feet or over in length will be taken, and shorter logs which are taken will be paid for. Trees shall be sawed into such lengths and products as shall give the greatest stumpage value, and if otherwise cut they shall be scaled as of such lengths and products as to give the greatest stumpage value.

12. Tops will be lopped and all brush piled compactly at a safe distance from living trees, as directed by the officer in charge. Unless written directions for other disposition shall have been issued by the officer in charge the brush and slash shall be burned by the purchaser as the logging proceeds, and under such precautions as the officer in charge may prescribe to prevent the spread of fire or the injury of standing timber, ordinarily prior to skidding.

13. The timber will be scaled by competent scalers selected by the Commissioner of Indian Affairs. Timber will be scaled by the Scribner decimal C rule and if required by the officer in charge will be skidded for scaling as he may direct. The maximum scaling length of all logs will be 18 feet; greater lengths will be scaled as two or more logs; on all logs 3 inches additional length will be allowed for trimming; logs overrunning this limit will be scaled as though 2 feet longer. Logs containing not less than 25 per cent of merchantable timber will be considered merchantable. Hewn railroad ties, used for logging purposes within the sale area, whose widest diameter inside the bark at the small end exceeds 12 inches, will be scaled; smaller hewn ties will be counted and 40 ties considered equivalent to 1,000 feet b. m.; diameters will be measured inside the bark at the top of the logs and recorded at the nearest inch above or below the actual average diameter.

14. All cutting shall be done with a saw when possible. Marked trees or merchantable dead trees left uncut, timber wasted in tops, stumps and partially sound logs, trees left lodged in the process of felling, and any timber merchantable according to the terms of the contract which is cut and not removed from the area sale before logging on that portion of the area is completed, or is left within any part of the sale area after the expiration of the contract, shall be scaled and paid for. Both dead and marked green trees and snags considered a fire menace by the officer in charge will be felled, but only such portions of them as are merchantable under the terms of the contract need be logged and paid for. Double scale will be charged for such trees if left uncut.

15. During the contract the purchaser and all of his employees, subcontractors, and employees of subcontractors, shall do all in their power both independently and upon the request of forest officers to prevent and suppress forest fires. Unless prevented by circumstances beyond his control the purchaser, together with his employees, subcontractors, and employees of subcontractors, will be placed at the disposal of any authorized officer of the Indian Service for the purpose of fighting fires, provided that if the fire does not threaten the property of the purchaser or the area embraced in the contract, he will be reimbursed for services so rendered, unless the purchaser is directly or indirectly responsible for the origin of the fire.

16. So far as is reasonable all branches of the logging shall keep pace with one another, and in no instance shall the brush disposal be allowed to fall behind the cutting except when the depth of snow or other adequate reason makes proper disposal impossible, when the disposal of brush may, with the written consent of the officer in charge, be postponed until conditions are more favorable. Operations shall be continued on each legal description or other unit of the sale area as determined by the officer in charge until the logging of each unit is completed to his satisfaction.

17. Necessary skid roads, log chutes, camps, buildings or other structures will be located as agreed upon with the officer in charge. Logging railroads within the reservation may be constructed under free permits to be issued by the Commissioner of Indian Affairs. The way for such railroad shall be cut free from combustible materials for a distance of 50 feet on each side of the track where such clearing is considered necessary by the officer in charge as a precaution against forest fires. Sawmills constructed in connection with timber operations upon the reservation shall be constructed under permits issued by the Commissioner of Indian Affairs. Bonds in addition to that submitted in support of the contract shall not be required: *Provided*, That the timber sale bond shall also cover the terms of such permits. Commissaries, construction camps, and all other buildings and improvements constructed upon the sale area or other Indian lands in connection with logging or railroad operation will be constructed under permits issued by the superintendent of the Red Lake Indian School. Such permits will require that the ground in the vicinity of all structures shall be kept in a sanitary

condition; that all rubbish shall be removed and burned or buried or otherwise disposed of as directed by the officer in charge; that when camps or other buildings are abandoned or removed all debris shall be burned or otherwise disposed of as directed by the officer in charge; and that all buildings or other structures shall be removed from the sale area within six months from the date of the termination of the contract or become the property of the United States in trust for the Red Lake Indians. Telephone lines shall be constructed under permits issued by the superintendent of the Red Lake Indian School. Such permits will provide that free use of such lines shall be allowed to Indian Service officers for official business and that no stumpage charge will be made for poles used in construction of these lines if, in the judgment of the officer in charge, they are of sufficient value to the Indian Service to make this concession equitable. All other telephone lines, trails, and traveled roads traversing the cutting area, which are now constructed or shall hereafter be constructed by other parties than the purchaser, shall be kept open and free at all times from obstruction by logs, brush and debris caused by logging operations, and all telephone lines, trails and roads damaged or destroyed by logging operations shall be repaired or rebuilt as required by the officer in charge.

18. Donkey engines or steam skidders may be used in logging on all portions of the sale area except Sections 1, 2, 11, 12, 13, and 14 of township 150 north, range 33 west, and sections 24, 25, 35 and 36 of township 151 north, range 33 west, but no unnecessary damage shall be done to trees left standing and to reproduction. Such engines and skidders may be used within portions of the excepted area with the written permission of the officer in charge.

19. Between April 1 and November 1, of each year, all locomotive, donkey engines, or other steam power engines when not burning oil, shall each be equipped with an efficient spark arrester which is satisfactory to the officer in charge. During this period each year donkey engines shall be equipped with a steam pump with not less than a 1-inch discharge, 150 feet of fire hose, 6 buckets and a constant supply of the equivalent of 6 barrels of water, and at least 5 shovels, this equipment to be suitable for fire-fighting purposes and to be so used when necessary.

20. At each setting of each donkey engine or other steam logging contrivance in which oil is not used as fuel, the ground shall be cleared of all inflammable material for a distance of 50 feet in all directions. During the period from April 1 to November 1 of each year no donkey engine or other steam logging contrivance in actual use for which oil is not used for fuel shall be left during the noon hour without a watchman and during the same period the purchaser may be required to employ a night watchman to guard against the escape of fire from logging engines.

21. No rigging shall be slung upon trees left for seed unless absolutely necessary. Where it is necessary to fasten chockers or straps around trees which are to be left for seed, they shall be protected from girdling by first encircling the trees with suitable poles of blocks of wood.

22. The approximate minimum diameter limit at a point 4½ feet from the ground to which living trees are to be cut is 12 inches. Trees above these diameters may be reserved for seed or protection and merchantable trees below these diameters may be marked at the discretion of the officer in charge.

23. The purchaser will pay for damage to property of the Indians growing out of his operations under the sale. The purchaser shall comply with all regulations relative to the maintenance of order on Indian reservations. Indian labor shall be employed in the cutting and removal of the timber and in the disposal of the brush whenever the use of such labor is practicable.

24. The title to the timber covered by the contract shall not pass to the purchaser until it has been paid for and scaled, measured, or counted.

25. All questions relative to the location of railroad spurs, the exact areas to be logged, the location of all structures, and the requirements to be observed in their construction, and other matters concerned with the operations of the purchaser upon the sale area shall be settled by the officer in charge. Final decisions as to points involved in the interpretation of the regulations and provisions of the contract governing the sale, cutting, and removal of the timber shall be rendered by the Secretary of the Interior. Work may be suspended by the officer in charge if the terms of the contract are disregarded, and the violation of any one of such terms, if persisted in, shall be sufficient cause for the revocation of the contract and the cancellation of other permits and privileges.

26. Refunds of deposits under the contract shall be made only at the discretion of the Secretary of the Interior.

27. This contract shall be void and of no effect until approved by the Secretary of the Interior, and no assignment of the same in whole or in part shall be valid without the written consent of the said Secretary.

28. No Member of or Delegate to Congress shall be admitted to any share, part, or interest in any contract, or to any benefit derived therefrom (see secs. 114 and 116, act of Mar. 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States," 33 Stat., 1088, 1109), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract. (See Executive order of May 18, 1905.) The cutting or removal of timber from Indian lands in breach of the terms of any contract, and without other lawful authority, or the leaving of fires unextinguished will render the contractor liable to the penalties prescribed by section 6 of the act of June 25, 1910 (36 Stat. L., 855, 857).

29. As a further guaranty of a faithful performance of this contract the said party of the second part agrees to furnish within 30 days from the execution of this contract a bond in the penal sum of \$25,000, and further agrees that upon the failure on his part to fulfill any and all of the conditions and requirements hereinbefore set forth all moneys paid under this agreement shall be retained by the United States to be applied as far as may be to the satisfaction of their obligations assumed hereunder.

Witnesses:

H. FOSSE.

C. H. WOODFORD.

G. H. BLAKESLEE.

STANLEY J. JOHNSON.

INTERNATIONAL LUMBER CO.,

By T. W. BACKUS, *Vice President.*

THOS. McLAREN, *Secretary.*

WALTER F. DICKENS,

Superintendent Red Lake Indian School.

DEPARTMENT OF THE INTERIOR, *December 11, 1917.*

Approved.

S. G. HOPKINS, *Assistant Secretary.*

EVIDENCE OF AUTHORITY TO SIGN CORPORATE INSTRUMENTS.

I, Thos. McLaren, Secretary of the International Lumber Co., a corporation organized and existing under the laws of the State of Minnesota, do hereby certify that at a duly called meeting of the board of directors of said company, at which a quorum of said directors was present, held at Minneapolis, Minn., on the 10th day of November, 1917, a resolution was adopted, of which the following is a correct copy:

"The president reported to the directors that on November 1, 1917, the company, by its vice president, authorized a bid to be made for certain timber to be sold by United States Government on the Red Lake Indian Reservation, State of Minnesota, at a sale to be held in Washington on November 5, 1917, or any adjourned date thereof, and that such bid had been accepted by the Government.

"*Resolved*, That the action of the vice president in making said bid be, and is hereby, duly ratified; and it is further

"*Resolved*, That in the contemplated absence of the president, the vice president is hereby empowered and duly authorized to do each and every act necessary to the proper completion of the purchase from the Government of said timber and to execute any contract or bond necessary thereto."

I further certify that on the 19th day of November, 1917, the above resolution was still in force and that on the said 19th day of November, 1917, S. W. Backus was the vice president of said company.

In witness whereof, I have hereunto set my hand and affixed the seal of the said company, this 24th day of November, 1917.

THOS. McLAREN, *Secretary.*

Mr. RANDALL. That is a Canadian concern, is it not?

Mr. MERITT. I think it is a Minnesota company. They have interests in Minnesota with headquarters at Minneapolis.

The CHAIRMAN. I would like to ask you if you know whether or not the White Earth Band, whom you claim were so fearfully defrauded in the conversion of their property and these assets into money, feel that they were badly treated at that time and defrauded to a great extent.

Mr. MERITT. They do, and these documents are full of testimony showing how badly they were defrauded.

The CHAIRMAN. And you feel now that you have so surrounded the activities of the Red Lake Indians in the conversion of their wealth

and the value of their property that there will be no fraud or robbery or anything of that sort?

Mr. MERITT. There will not be any fraud and robbery if there is no legislation gotten through Congress like they got through the Congress in the year 1906. We are going to do everything we can to prevent legislation of that kind being enacted and we are furnishing information to the committee at this time with the hope that if that legislation is attempted to be gotten through Congress that it will be blocked.

The CHAIRMAN. What has happened to the legislation that permitted this fraud of which you speak? Does that still exist? Is that still law?

Mr. MERITT. It is still law, and the Indians very quickly after the passage of that legislation disposed of their property interests, and the department was not in a position to prevent it, although we have recovered for some of those Indians money to the extent of between one and two million dollars, referred to yesterday by Mr. Ballinger.

The CHAIRMAN. Then the contract which exists now for the taking off of this lumber is with one concern only?

Mr. MERITT. Yes, sir. There is still some timber on the Red Lake Reservation that has not been sold nor contracted for.

Mr. DALLINGER. Your idea is to have it all cut off and turned into money?

Mr. MERITT. Our idea is to have practically all of the timber eventually sold and the proceeds go to the Red Lake Indians.

The CHAIRMAN. How long do you expect that the conversion of the lumber into money is going to take?

Mr. MERITT. It will take four or five years to dispose of the timber that we have already sold.

The CHAIRMAN. Is there actual work going on up there now?

Mr. MERITT. Yes, sir.

The CHAIRMAN. How long has that been going on?

Mr. MERITT. About two years, I should say. I will furnish to the committee the contract which will show the date and the terms of sale.

The CHAIRMAN. There is just one contract with one concern?

Mr. MERITT. Yes, sir.

Mr. ELSTON. What is done with the proceeds?

Mr. MERITT. Deposited to the credit of the Indians.

Mr. DALLINGER. Has any of that been divided?

Mr. MERITT. Part of it has been divided.

The CHAIRMAN. Is there any competition in the letting of this contract?

Mr. MERITT. Yes, sir; we received bids on that timber. The contract was dated December 11, 1917, and the contract for the sale of the timber is with the International Lumber Co. of Minnesota, and covers the sale of approximately 72,000,000 feet of timber on the Red Lake Reservation.

The CHAIRMAN. Then the contract was made in 1907, but the actual work was not begun until 1918, or thereabouts?

Mr. MERITT. 1917.

The CHAIRMAN. Ten years after the contract was made.

Mr. MERITT. Not at all. I stated that the contract was dated December 11, 1917. It was estimated that 67 per cent of the timber was white pine, and the bid was \$14.10 per thousand.

Mr. ELSTON. May I ask what that \$14.10 means? Is that in the log?

Mr. MERITT. That is as it stands on the land.

Mr. ELSTON. Stumpage?

Mr. MERITT. Yes. We considered that a very high price.

The CHAIRMAN. Previous to 1917 it would have been an exceedingly high price.

Mr. MERITT. That \$14.10 is a very good price indeed. That was obtained, and about 27 per cent of it was Norway pine, for which bids of \$10.25 were received.

The CHAIRMAN. Who checks the quantity of lumber taken off?

Mr. MERITT. We have checkers representing the Indians and the Indian Bureau. The total receipts on this contract deposited by the superintendent February 21, 1920, were \$487,039.77. This quantity of timber covered by this contract and already out will bring something over \$500,000. There is unsold timber on the reservation of a value estimated at about \$500,000.

Mr. DALLINGER. Does your bureau have experts to check up on the stumpage?

Mr. MERITT. Yes, sir.

The CHAIRMAN. What check do you have on the checkers?

Mr. MERITT. We have a check on the checkers. We send our chief supervisor of forests to the reservation to supervise the conditions and keep in touch with the work.

The CHAIRMAN. How frequently in the proceeding of that work do you send some one there to check up these checkers? Are the checkers under bond?

Mr. MERITT. We have the superintendent on the reservation, who gives supervision of the matter in addition to the regular checkers, and then we send occasionally the chief supervisor of forests.

The CHAIRMAN. Then, in addition to that, you have cruisers in the whole territory so that you can check and see how the stumpage comes out in comparison with the cruise?

Mr. MERITT. We have the entire timber area cruised and we know almost exactly the amount of stumpage.

Mr. DALLINGER. Do they cut everything or only trees of a certain size?

Mr. MERITT. They cut trees of a certain size.

Mr. ELSTON. I would like to refer to the proposition of how well you are protecting yourself against possible reversal of the bureau's interpretation of the act of 1895 with regard to the title of the Red Lake Reservation. Do you feel that you are taking any chances whatever in making sales there and distributions on the theory that the Red Lake Indians own the whole of the 700,000 acres, and do you feel that there is nothing that you could do that would provide against the possible contingency of your being wrong?

Mr. MERITT. We could practically discontinue all activity on the reservation until this legislation was passed by Congress.

Mr. ELSTON. Would there be some kind of an agreement by which you could salvage yourself if you were wrong or keep the situation in such a way that if you make payments erroneously under your theory, which may prove wrong, that you can recoup yourselves out of the remaining property of the persons to whom you made erroneous payments? Is there any possibility of that? Of course, you are

assuming in everything you are doing that this thing is absolutely settled and that there is no possible doubt, in view of this pending litigation. It shows that you have no question whatever about the issue or otherwise you could not proceed on the theory that you are making all these payments without any reservation whatever to recoup yourselves if you are wrong. I think I can not overstate that at all.

Mr. RANDALL. As I understand it, the attitude of the Bureau of Indian Affairs irrespective of litigation is that they are compelled by the law existing to go ahead and administer this fund as the law reads, and if the United States is stuck by the litigation, all right.

Mr. ELSTON. That is the explanation, I think. But what I want to inquire is whether or not they feel that in view of the fact that there might be some mistake and that Congress having passed the legislation largely on the implied recommendation of the bureau is following erroneously a start that the bureau gave them, and that if the bureau thinks it is running Congress and the people into a possible hole that they might suggest something by which we can recoup ourselves if we are wrong.

Mr. RANDALL. I agree with your suggestion entirely. That is about what you might gather from what Mr. Meritt stated.

Mr. ELSTON. I think it is.

Mr. MERITT. I think that we can not pay out hereafter the proceeds from the sale of this timber without further legislative authority of Congress, and, inasmuch as the jurisdictional bill is now pending before Congress, our attitude as administrative officers would be to conserve the proceeds from the sale of this timber so far as practicable and above what is absolutely necessary to administer the affairs of those Indians and meet their most urgent needs so that if that judgment is against the Red Lake Indians the funds would be conserved to meet it.

Mr. RANDALL. May I ask you how much remains of the \$480,000 that has been derived from the sale of this timber?

Mr. MERITT. The Red Lake Indians have \$410,000 on deposit in the Treasury to their credit carried as "Red Lake Forest 4 per cent fund."

The CHAIRMAN. Without casting any reflection whatever on the checkers, I would like to know who pays the checkers?

Mr. MERITT. The superintendent.

The CHAIRMAN. Can you state what the salaries of these checkers are?

Mr. MERITT. The following is a list of these employees and their salaries:

Forestry employees, Red Lake Reservation, as of Mar. 1, 1920.

William Heritage, deputy supervisor of forests, check scaler.....	\$1,500
John A. Jackson, scaler.....	1,080
Alexander R. Garrow, scaler.....	1,080
N. D. Rodman, scaler.....	1,080

The CHAIRMAN. They are in no way employed or paid by the company? It is taken off the lumber?

Mr. MERITT. The company probably has checkers of its own, but we have separate checkers.

The CHAIRMAN. It is a check in the interest of the Indians, and the checkers are wholly in the pay of the bureau?

Mr. MERITT. Yes, sir. It should be borne in mind that there is now in the Treasury of the United States more than \$6,000,000 to the credit of the Chippewa Indians of Minnesota, and the Red Lake Indians have a share in that money, and any judgment that might be rendered against the Red Lake Indians could undoubtedly be recovered from the property and the money interests of the Red Lake Indians, and the Federal Government would not likely be called upon to meet any of this judgment in the event that the judgment should be rendered against the Red Lake Indians, which we consider is a remote possibility.

Mr. DALLINGER. Is that all based on information from Mr. Mahaffie, the solicitor of the department?

Mr. MERITT. No, sir.

The CHAIRMAN. In the checking up of this timber, when it leaves the hands of the bureau and goes into the hands of the company, just who does the checking? I do not mean the names of the men, but do the bureau's checkers and lumbermen's checkers work together or does the lumbermen's checker check it first and then that checking is done again by the bureau?

Mr. DALLINGER. When is it done, and at what stage?

Mr. MERITT. We have in the room a Red Lake Indian who was formerly employed on this work. I think that probably he could give you the exact information that you want.

The CHAIRMAN. All I am interested in is, there was so much fraud apparently connected with the conversion of the property of the White Earth Indians that we want to be sure that nothing of that sort is coming in at this time or can get in with regard to the distribution of this property.

Mr. MERITT. You may rest assured that the interests of the Red Lake Indians are being very carefully protected by the Indian Bureau. I believe all the Indians here will concede that.

The CHAIRMAN. Will the gentleman tell us just how the checking is done?

Mr. MERITT. Mr. Head is a Red Lake Indian who was employed on that work.

STATEMENT OF MR. NATHAN J. HEAD, MEMBER OF RED LAKE BAND, CHIPPEWA INDIANS.

The CHAIRMAN. In your own way just tell us how you turn over this lumber from the bureau or the Government to this lumber company and how is it charged up to them and checked out?

Mr. HEAD. It is authorized by act of Congress that all of the timber be cut and scaled under the acts adopted by the Bureau of Indian Affairs.

After the log is cut and it is numbered, a series of numbers from 1 up to 10,000, it is entered in the scale book, which corresponds with the number on the log, and the checker appointed by the Forest Bureau and the Indian Bureau goes in and inspects the scales and checks the number, say, a thousand logs, to the month, or probably less than that. The number of logs will amount to four or five million, possibly ten million feet in the season's cut. He checks every week or 10

days here and there. He looks over the scaler's book and checks it. If there is a difference he goes over it and checks where the mistake is made.

Mr. ELSTON. The scaler is an Indian Bureau official, and he makes an estimate of the number of feet in each log. Is that what you mean by scaling?

Mr. HEAD. Yes, sir.

Mr. MERITT. It is not estimated. They apply the scale rule that gives the number of feet in a log of a certain size.

Mr. ELSTON. That calls for the size of logs, a personal inspection of every log and the application of the scale figures which gives the number of feet.

Mr. DALLINGER. When is this done? For instance, the logs are cut by the company and then are they drawn on sleds to some places?

Mr. HEAD. When the logs are cut they are hauled into the skidway on the roadside and he rides over to scale the logs.

Mr. DALLINGER. Each pile of logs is brought from where they are cut. Each pile is scaled; is that right?

Mr. HEAD. That is right. Then, of course, the contractor has the right to go over the Government scaler's books. He has that right and he is looking out for it.

The CHAIRMAN. You are a Red Lake Indian?

Mr. HEAD. I am.

The CHAIRMAN. Are you in the employ of the Government?

Mr. HEAD. Yes, sir.

The CHAIRMAN. You are in no way employed by the lumber company?

Mr. HEAD. No, sir.

The CHAIRMAN. You are there looking out for the interests of the Red Lake band?

Mr. HEAD. As well as myself.

The CHAIRMAN. You are satisfied that the checking is honestly done?

Mr. HEAD. Yes, sir. That is about the only way to properly protect the sellers, who are the Indians.

Mr. MERITT. In the statement of Mr. Ballinger there were some remarks about the school system in the Chippewa country. Criticism was made of the Twin Lake Day School on the White Earth Reservation. My information is, and the records of the Indian Office show, that we have one teacher at a salary of \$720 a year and one housekeeper at a salary of \$300 a year employed at the Twin Lake Day School on the White Earth Reservation. The records also show that that school has an average attendance of 33 for the current year and an enrollment of 46. Compared with the Indian schools throughout the country, I think that is a very satisfactory showing and that the cost is not excessive.

The CHAIRMAN. Is that the one he referred to as having seven pupils at an expense of \$8,000?

Mr. MERITT. He criticized this school, and this is the information that the records of our office show.

The CHAIRMAN. Is that the one who had the Government school in one end and the public school in the other?

Mr. MERITT. Yes, sir. There was also some comment made about the Government furnishing midday meals to those Indian children.

This is the first time that I have ever heard the Indian Bureau criticized for furnishing meals to Indian children. We have been complimented on our work along that line. I believe that if some of the white schools would follow our example it would be helpful to the children because it is shown that there are a great many white children attending the public schools that are undernourished. When it is remembered that these little Indian children come from homes a considerable distance away and the climate is exceedingly cold during the winter months, it is entirely the proper thing to furnish them with the midday meals.

The CHAIRMAN. You do not feed anyone at these schools who is not regularly in attendance at the schools?

Mr. MERITT. No, sir.

The CHAIRMAN. What would be the average age, if you can tell us, of the average attendance of 36?

Mr. MERITT. I have not that information, but I think it would average from 6 to 16 years of age.

Mr. RANDALL. Do you happen to know how near the nearest public school is to this Indian school?

The CHAIRMAN. There is one right in the same building.

Mr. MERITT. We are ready to turn over these children to the public schools any time they will furnish facilities for educating these Indian children. It is our policy to get Indian children into public schools wherever it is possible.

The CHAIRMAN. It is claimed by reason of the fact that the Government runs a school in one end of the building and the State runs a school in the other end, and due to the fact that the Government furnishes a meal at noon, that it is competition which the State can not overcome, and, therefore, the larger number go to the Indian day school.

Mr. DALLINGER. Mr. Ballinger brought out the fact that the instruction of the State schools was infinitely superior to the instruction given by the Government.

Mr. MERITT. That I deny, because I think that the instruction furnished in the Indian schools is equal, if not superior, to the public schools of the country. However, it is our policy to get Indian children in public schools wherever it is possible, and we have now more than 30,000 Indian children in the public schools throughout the country. We have requested Congress in the last few years to very greatly increase the appropriation for paying tuition of Indian children in public schools.

The CHAIRMAN. Which you would not have very much trouble to get, in the judgment of the chairman, if you managed the affairs of the day and boarding schools on the reservations in such a way that you did not furnish opportunity for so large a percentage that you can not provide for.

Mr. MERITT. Also in connection with the alleged extravagant expenditures of the Chippewa funds, I wish to call the attention of the committee to what we are doing for the Chippewa Indians along hospital lines. We have four hospitals among the Chippewa Indians. We have one hospital at Fond du Lac and during the year 1919 there were admitted to the hospital 200 patients at a cost of \$7,500. At the Leech Lake Agency, Minn., we have a hospital where there were admitted 428 Chippewa Indians at a cost of \$2,085.76. At the Red

Lake Reservation, Minn., there is a hospital where there were admitted 243 Indians at a cost of \$4,602. At White Earth we have a hospital where there were admitted during the year 255 Indians at a cost of \$8,290.19.

I believe that every one will concede that there is good work being done for the Chippewa Indians at a reasonable cost.

The CHAIRMAN. The time for recess having arrived, if there is no objection we will adjourn until 10 o'clock to-morrow morning.

(Thereupon, at 1 o'clock p. m., the committee adjourned to meet again at 10 o'clock a. m., Thursday, March 11, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Thursday, March 11, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. The committee will come to order and we will resume the hearing where we left off last night. Mr. Meritt, you can proceed in your own way.

Mr. MERITT. Mr. Chairman and gentlemen of the committee, I have been in an off-hand and extemporaneous way endeavoring to answer some of the misleading statements in the very carefully prepared brief of the attorney for the general council of the Chippewa Indians. I have not been able to answer all of these misleading statements because it would require too much time, but I have up to this point endeavored to answer some of the most important of the misleading and exaggerated statements. I shall finish my remarks in a very short while. There are only a few remaining items which I wish to bring to the attention of the committee.

Mr. Ballinger, the attorney, in his statement referred to the long time it took Mr. Edward L. Rogers to get the money of his children, after he had been appointed their guardian. I believe the statement of Mr. Ballinger was to the effect that it took one or two years, and he called on Mr. Rogers to confirm that statement, and Mr. Rogers answered that it took about six months. The facts are that Mr. Edward L. Rogers was appointed guardian on March 27, 1918, and the balance of the funds belonging to his children was mailed by the superintendent to Mr. Rogers on April 5, 1918, less than 10 days after he was appointed guardian. This is only a sample of the exaggerated statements that are made before this committee regarding Indian affairs. I shall not take time to answer all of these statements and am simply answering this one as an example of the statements that are brought to Members of Congress with a desire to prejudice the minds of the Members of Congress against officials of the Indian Service who are endeavoring to fulfill their duties to the best of their ability, duties that are exceedingly difficult to administer. Covering a period of nearly 100 years Congress has enacted probably 1,500 separate laws covering Indian matters, and there has been entered into between 200 and 300 treaties or agreements, and it is an exceedingly difficult matter to administer all of these laws and meet the requirements of all of these agreements and treaties. It should also be borne in mind that the Indian Service has supervision over a territory as large as

New York and the New England States combined and has under its supervision at this time approximately 225,000 Indians, a large number of whom are incompetent to handle their own affairs. It should also be borne in mind that these Indians live in 26 different States and are scattered over a very wide area.

The CHAIRMAN. Mr. Meritt, I want to try to clear up one thing right there, as a matter of information. When you say you have in charge 225,000 Indians, does that mean competent and incompetent Indians? Those who have been declared competent and allotted, are they under your supervision?

Mr. MERITT. There are over 300,000 Indians in the United States. The Indian Bureau does not now have jurisdiction over a large number of Indians in the United States at this time because they have been given patents in fee and are not under the jurisdiction of the Indian Bureau because Congress has passed legislation removing their restrictions.

The CHAIRMAN. These 225,000 you speak of, these are all incompetent Indians?

Mr. MERITT. Not all of them are incompetents.

The CHAIRMAN. But so far as the bureau is concerned they are under your supervision?

Mr. MERITT. Yes, sir; under the supervision of the Indian Bureau.

The CHAIRMAN. Then the difference between that number and the 300,000 is made up of Indians who have been declared competent, or have gotten away from the service in some way or another, but many of them are still doing business with the bureau?

Mr. MERITT. Yes, sir.

The CHAIRMAN. So that we can safely say that the bureau to-day is only directly in charge of 225,000 Indians?

Mr. MERITT. That is approximately correct, with this reservation, that some of these Indians have received patents in fee——

The CHAIRMAN. You are speaking of some of this 225,000?

Mr. MERITT. Some of the 100,000 who have gotten out from under the jurisdiction of the bureau. These Indians still have an interest in the undivided property and when that property is sold they are entitled to a share of the proceeds.

The CHAIRMAN. And the only control you have over that body is through your forced relations in the care of whatever interest they may have in some tribal fund that could not be distributed when they were declared competent?

Mr. MERITT. Yes, sir; take for example, Mr. Rogers here. He is an absolutely competent Indian, and we do not want jurisdiction over Indians of that class. However, he has received his patent in fee, but still has an interest in the Chippewa tribal funds now in the Treasury of the United States. We would like to pro rate this fund, pay him his share, and let him go his way the same as any other citizen of the United States, but under the laws of Congress we can not pro rate these funds at this time as we would like to do, reserving only sufficient to carry on the schools, so that these Chippewa Indians who are competent might get their share and no longer have any interest in any tribal moneys.

The CHAIRMAN. What do you allege as the reason Congress has not been willing to give you legislation which will permit you to do that very thing?

Mr. MERITT. For the reasons discussed in this hearing previously. The Nelson Act of 1889 provides that part of the Chippewa fund is to be reserved for a period of 50 years. Some people contend that if we pay out this money at this time that later on there will be a claim against the Government. My contention is that Congress has absolute authority to pay out these moneys. It is absurd to keep this money in the Treasury for a period of 50 years when the time is now ripe for the competent Indians to have the benefit of it.

The CHAIRMAN. Do you understand that this proposed legislation will permit you to do that very thing?

Mr. MERITT. This proposed legislation will authorize a per capita payment of \$300 to each Chippewa Indian. Those who are competent will receive this money in cash, without supervision. When there is sufficient money in the Treasury to the credit of the Chippewa Indians, another \$300 per capita distribution will be made, if this legislation is passed.

The CHAIRMAN. What will happen to the incompetent Indians?

Mr. MERITT. Their money will be paid to the parents, if appointed guardian, and they will be responsible to the courts. If the parents are not appointed guardians, the Interior Department—that is, the Indian Bureau—will retain the money under its supervision.

The CHAIRMAN. That is a matter provided for in this legislation?

Mr. MERITT. Yes, sir; but it does not go as far as I think it should. I think we should reserve only enough of that money to continue the schools and pay out the balance to the Indians individually; paying in cash to the competent Indians and reserving in cash the money due the incompetent Indians.

The CHAIRMAN. It is claimed that there are 12,000 Chippewa Indians. What percentage of that 12,000 are incompetent?

Mr. MERITT. About 5,000 of the Chippewa Indians are no longer under the Indian Office so far as lands are concerned.

The CHAIRMAN. Are those 5,000 Indians made up of Indians who have largely gotten away from the Chippewa Reservation and gone out into the world for themselves, or is part of this 7,000 left up there?

Mr. MERITT. That 5,000 refers to Indians to whom patents have been issued and who were included in the provisions of the Clapp amendment in 1906.

The CHAIRMAN. Then, according to your figures, there are about 7,000 incompetents.

Mr. MERITT. There are Indians who have not yet received patents who are competent. For example, on the Red Lake Reservation; but we have not allotted the Red Lake Reservation and are not in position to issue patents at this time.

The CHAIRMAN. When I use the word "incompetent," I use it on the basis that they have not been declared competent by the bureau. Now, one further question; if this legislation is enacted, what period of time do you think it would take to declare these incompetents competent? In that question I am not including a certain percentage who can never be declared competent.

Mr. MERITT. I should say within a period of two years after the enactment of this legislation, those Indians who are competent could be declared competent, except the Red Lake Indians, and, as I

have stated before, it will take a little longer to handle the Red Lake situation.

The CHAIRMAN. That is due to the difficulties in getting the property ready?

Mr. MERITT. Due to the fact that the reservation needs to be drained and that we need to sell the timber there so that there can be an approximately equitable division.

The CHAIRMAN. You have answered that in your own way but have not given me the information I am trying to get. What I am trying to bring out is how long it would take to get that per cent of incompetents declared competent and the approximate percentage who will come within that competent class.

Mr. MERITT. Out of the 12,000 Chippewa Indians, I would say that approximately two-thirds of the adult Indians would come within the competent class.

Mr. KELLY. Does that mean there are 4,000 who would never be declared competent?

Mr. MERITT. No, sir; we would not declare a minor child competent as long as it retained its minority.

Mr. KELLY. How many of that number you say would not be declared competent, would never be capable of being declared competent?

Mr. MERITT. That would only apply to the old, full-blood Indians and I think it would be unwise and unjust to issue patents to the old, uneducated, full-blood Chippewa Indians.

Mr. KELLY. Approximately how many do you think would always be under the control of the bureau for their own protection?

Mr. MERITT. I would say approximately one-fifth of the adult Indians of the Chippewa Tribe would always need the protection of the bureau.

The CHAIRMAN. Now, Mr. Meritt, when you declare the parents of children competent, under the present rule, that still leaves the children as incompetents and anything allotted is still held by the bureau for these incompetents?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Why would it not be a safe proposition when you declare the parents competent to turn over to them, the same as you would to a white man in full citizenship, all the property which belongs to the family and let the parents care for the transfer of the property to the children? Would that not be a fair proposition?

Mr. MERITT. We have taken the position that the money belonging to the children of competent Indians, provided these competent parents will have themselves appointed as guardians of the children, should be turned over to them but we have not gone so far as to say we would turn over the allotments of the children to the parents.

The CHAIRMAN. Here is the point, if we went that far we would then be able to disassociate the bureau from future transactions with that family.

Mr. MERITT. I do not believe, Mr. Chairman, that we have reached the point in Indian development when that can be safely done.

The CHAIRMAN. It can not be done perhaps as safely as you would desire; however, you would turn the same thing over to a white man. It strikes me that when you go so far as to declare the parents competent you do not fulfill all requirements until you turn over to

them everything that belongs to the family. This may be revolutionary with regard to the policy of the bureau, but it strikes me that it is the only way we will ever be able to terminate the activities of the bureau with regard to any individual who has Indian blood in him at all.

Mr. MERITT. I am willing to go that far with the money of the minor children, the Indian Bureau is willing to go that far, but I believe your suggestion might prove somewhat radical——

The CHAIRMAN. A good many of my suggestions have been deemed impracticable, but nobody has stated that they were not sane.

Mr. KELLY. What would be the danger in that policy?

Mr. SINCLAIR. The real estate perhaps.

Mr. MERITT. The average Indian mind, in regard to the property of minor children, is different from that of the average white man. I mean this as no criticism against the Indian, but simply to state what has been the experience in handling Indian affairs. A great many Indians look upon the property of their children as being their own property and feel that they should do with that property exactly as they see fit. They do not look ahead to the time when the child will become of age and will need this property for its own use. A large number of Indians look more to the need of the present day than they do for any need that will arise in the future; they are not disposed to accumulate property like the white man. Now, of course, there are a great many exceptions to this rule. We have in this room Indian men who have accumulated considerable property, but they are the exceptions.

The CHAIRMAN. Mr. Meritt, allow me to break in right there. You must admit that as a whole the Indians have had few opportunities on account of the restrictions surrounding them. We can not tell whether the Indians, as a whole, if they were permitted to have the opportunity of trying to accumulate anything in the interest of their families, whether they would succeed or not. In the five years that I have had something to do with Indian affairs, I have seen a good many of them and they do not impress me along the line that you claim experience has taught you. I am one of those who believe that a man can do twice as much with his own property, even though he has only half as much knowledge, as some one else will do with it; he will handle his own affairs better than anyone else. That is my opinion, whether it is an Indian or a white man.

Mr. MERITT. I agree with you absolutely and we are doing that very thing for the Indians; we are turning them loose very rapidly indeed, and during the last three years we have turned loose more Indians than during the previous 10 years, and we will continue to pursue that policy at a very rapid rate; but notwithstanding the fact that we have turned loose a great many of the Indians who are alleged to be competent, the experience of the Indian Bureau is that a large percentage of these Indians who are supposed to be competent dispose of their lands and lose their property within a very short period after the restrictions have been removed.

The CHAIRMAN. Mr. Meritt, approximately how many Indians, during your experience in the department, whom you have once declared competent have subsequently been declared incompetent?

Mr. MERITT. Very few; when we issue a patent in fee to an Indian, that man is no longer under the jurisdiction of the Indian Bureau

and we do not attempt to recover that land and assume jurisdiction over it. There have been some cases where exceptions have been made to that rule, but the general policy is that when an Indian is given a patent in fee we no longer attempt to have any jurisdiction over him.

The CHAIRMAN. I appreciate that we are getting pretty far afield on this proposition and I have in my own experience heard only of one or two cases where an Indian had been declared competent and was afterwards declared incompetent, and I believe that situation was brought about by a band of robbers, land robbers, in the State who were trying to get what the Indian had, and that might happen to any one, either Indian or white man. As a whole, however, have not the Indians who have been declared competent done about as well as the average foreigner who comes into this country, after he has been declared competent? I am judging now from the Indians I have seen and the information I have gotten in these investigations.

Mr. MERITT. I would say that they have.

The CHAIRMAN. If that is so why can we not give them a little more latitude and by so doing relieve the Government, as a government, of this eternal guardianship on unborn children? I want to make this statement: I had no knowledge whatever of Indian affairs five years ago but the knowledge I have gained in five years in these committee hearings leads me to believe that the complications grow considerably more intensive and the difficulties concerning the handling of the property of the Indians are multiplied instead of decreased all the time and if we keep on with this mass of laws we are putting over every year, adding to them all the time, I do not see where it is going to end. The further I go into it the more complicated the situation looks, and I have come almost to the conclusion that if the whole business of taking care of the Indians was done away with entirely and their property turned over to them as bands or tribes and they had permission to distribute that property among themselves and handle their own affairs, they would be better off and the country would be better off. I will not say that that is a settled conclusion with me but I am getting very nearly to that point and therefore I will be very liberal in this legislation if I can be shown that it will be the means of turning as many as possible of these 12,000 Indians over to the State in the same status as any other white citizens, and give them their property to do with as they please.

Mr. MERITT. In answer to that statement I want to say that the Indians of the United States control property to the value of about a billion dollars. If the legislation you have suggested were enacted by Congress, these Indians would, within a period of six months, have disposed of at least one-half of their property.

The CHAIRMAN. Of course that is only an observation on your part.

Mr. MERITT. It is observation based upon experience under the legislation enacted by Congress heretofore.

The CHAIRMAN. I do not say that is a final conclusion with me.

Mr. MERITT. Congress enacted the Clapp Act removing from the jurisdiction of the Indian Bureau the property of all adult Indians of less than full blood and as a result of that legislation the mixed blood Indians on the White Earth Reservation, who are supposed to be

among the most competent Indians in the United States, lost at least 80 per cent of their property.

The CHAIRMAN. How long ago was that?

Mr. MERITT. That was in 1906.

The CHAIRMAN. Well we have made some headway with the education of the Indians since then, I hope, and a great many of them are in a better frame of mind to care for their affairs than they then were.

Mr. MERITT. You see here only the competent ones, you do not see the full-blood Indians back in the tepees, who are not capable of looking after their own interests. You see the most competent Indians in the United States here in Washington as a rule. We had before this committee, recently during your absence, full-blood Chippewa Indians who were incapable of presenting intelligently their views on any proposition.

The CHAIRMAN. You do not mean that those who were here would be a fair illustration of the best minds of that tribe?

Mr. MERITT. I mean that those who are here now are an illustration of the most advanced Indians in the United States.

The CHAIRMAN. You can go out in any tribe, white, black or yellow, and bring in an element which will prove to the committee instantly that they are not competent; but you could also go into that same tribe and select men who are capable of handling their own affairs and the affairs of their people.

Mr. KELLY. It strikes me as an observation that the Assistant Indian Commissioner takes it that it is a very fine thing to teach these Indians to swim, but at the same time to say to them that they must not go near the water. There came to my personal notice the case of a young Indian lad who had been in the Army; served in France, came back finally and was recommended for an allotment by the superintendent but could not get it out there and came on to Washington to see about getting it. He accidentally came into my office and I got interested in him and his case and sent him, along with a white man from my office, whom I insisted should accompany him, to the Indian Bureau and at the Indian Bureau he was told that this white man's presence made it very suspicious and therefore the Indian boy would have to go back to the reservation and they would write him there.

That was the best he could do. He went back and after three weeks had gone by he wrote me that he could not get his patent because the Indian Bureau had informed him that it would be necessary to make a thorough investigation to see whether this white man, who had gone to the Indian Bureau with this boy at my request, was not attempting to defraud him of his land. This Indian boy is perfectly capable of handling his own affairs, but it seems to me that the policy of the Indian Bureau is to prevent them doing so.

Mr. MERITT. I remember that specific case, Mr. Chairman. This Indian was from the Yankton Reservation in South Dakota and came to Washington for a patent. He was accompanied by a white man who came all the way from South Dakota with him to help him get his patent in fee. We have a rule in the Indian Bureau not to issue patents in fee to Indians here in Washington and the reason for that rule is because our experience shows that if we issue patents in fee to Indians here in Washington they frequently dispose of their lands before they get back to the reservation, and sometimes at a very inadequate price. For instance, only recently we had an Indian

get a patent in fee to a tract of land worth between ten and twelve thousand dollars and that Indian sold that land to a man who had persuaded him to get the patent, for less than \$4,000 and that Indian has since discovered what his good white friend has done to him. That is the reason for this rule not to issue patents in fee to Indians here in Washington.

Mr. KELLY. Then it is the policy of the bureau to put out a protecting hand and never trust them, never allow them to know responsibility?

Mr. MERITT. We are now issuing patents far more rapidly than ever before, but on that reservation you refer to, where we have issued a great many patents in fee, the Indians on that reservation who have received patents in fee, about 90 per cent of them are now without lands.

Mr. KELLY. Defrauded out of their lands?

Mr. MERITT. Sold their lands and been defrauded out of them and in a short time will be absolutely dependent upon their children for homes.

Mr. KELLY. As I remember, there were about six or seven thousand Indians declared competent in the last few years, yet there are Indians coming on faster than ever and these Indians will of course share in this property.

Mr. MERITT. The Indians coming on now will not share in the property of these reservations where the lands have been allotted and the rolls closed. Congress has recently enacted legislation which will close the rolls of these reservations and the money will be distributed and, therefore, the children who are born now will not share in that property. For example, no children born since 1906 have been enrolled on the Five Civilized Tribe rolls and no children born since the Osage Reservation was allotted in 1906 have been added to the rolls; these children do not share in the oil properties or any distribution of lands or money.

The CHAIRMAN. Except as they share through their parents' ownership?

Mr. MERITT. Yes, sir; therefore the statement you make is not in accordance with the practice of the bureau or legislation enacted by Congress. Now, on a reservation where property has not been allotted and the rolls have not been closed——

The CHAIRMAN. How does this legislation affect a situation like that?

Mr. MERITT. This legislation here will, except as to the Red Lake Indians, enable us to have rolls of all the Chippewa Indians and to make this distribution among them.

The CHAIRMAN. Including the minors and unborn?

Mr. MERITT. Yes, sir. It is our desire on all these allotted reservations to close the rolls and distribute the funds as soon as possible.

The CHAIRMAN. Let us proceed, if you have anything further. I would call your attention to the fact that I do not remember your having cleared up the Fond du Lac school matter. There were some very broad statements made and I would like to hear your statement on that.

Mr. MERITT. Mr. Chairman, Mr. Ballinger referred to the fact that Chippewa funds had been appropriated by Congress for administrative purposes in the Chippewa country and stated that he believed

that was an illegal action and that the Chippewa Indians would have a claim against the Government for these funds appropriated by Congress. The legislation on this subject has been carried in the bill since 1912, the amount appropriated differing from year to year. It reads: "The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of \$60,000, or so much thereof as may be necessary of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act."

Certain representatives of the Chippewa Indians of Minnesota have endeavored to handicap the department in the administration of their affairs for the benefit of the great mass of the Chippewa Indians. Some time ago Mr. Webster Ballinger, as attorney for certain of the Chippewa Indians of Minnesota, endeavored to prevent the department from using moneys carried in one of the Indian appropriation acts, which was extended by joint resolution of Congress when one year the Indian appropriation bill failed to be enacted.

This litigation was taken into the Supreme Court of the District of Columbia for the purpose of enjoining the Secretary of the Interior, the Commissioner of Indian Affairs, and the Treasurer of the United States from expending funds appropriated by Congress for 1916, by joint resolution of March 4, 1915 (38 Stats. L., 1228). Under date of December 9, 1915, the Supreme Court of the District of Columbia denied the injunction sought by the plaintiffs and dismissed the bill. The case was then appealed to the Court of Appeals of the District of Columbia, and under date of April 22, 1916, that court reversed the decision of the lower court, whereupon an appeal was taken to the Supreme Court of the United States. A decision was handed down in this case under date of March 4, 1918, and an abstract from such decision informally furnished, reads as follows:

It seems clear that "civilization and self-support" among the Indians can not be promoted effectively by disconnected efforts, but must be accomplished, if at all, by definite, permanent plans operating through many years. And in view of the long-continued practice of Congress to provide funds for such continuous efforts by annual appropriations, the circumstances under which the joint resolution became law, and the studied incorporation therein of the language of former appropriation acts, we think the purpose was to authorize expenditures of \$160,000 during 1916, as had been done for 1915. A different construction might have occasioned disruption of well-ordered arrangements for advancing the Nation's wards to the great detriment of all concerned; and to such unfortunate consequences experienced legislators probably were not oblivious.

This decision reversed the decision of the court of appeals referred to and affirmed the decision of the lower court which denied the injunction. There is authority of law for all that Congress has heretofore done in regard to making these appropriations out of these trust funds for the support and civilization of these Indians.

Mr. KELLY. Did that decision you have just cited go into the question of the authority of Congress on that appropriation?

Mr. MERITT. The question in that case was whether or not the joint resolution of March 4, 1915, extended the provisions of the pre-

vious act so far as it related to the Chippewa funds. I have quoted the language as bearing on this proposition showing the mind of Congress relative to the appropriation and use of these funds belonging to the Chippewas.

Mr. KELLY. There is evidently a difference of opinion as to whether the joint resolution is illegal or whether Congress has authority to make appropriations from these funds.

Mr. MERITT. I do not want it understood that I am attempting to have this committee believe that the Supreme Court has passed on this question directly, but we would be entirely satisfied to have the court pass on it at any time. However, there is specific authority in the act of January 14, 1889 (25 Stats., p. 645). In section 7 of that act is this provision:

Provided, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per centum thereof.

Now, Mr. Chairman, we have always kept our estimates within that 5 per cent limitation and I have brought this matter out to show to the committee that Congress has the specific authority to appropriate these Chippewa funds for administrative purposes as long as they keep within the 5 per cent limitation.

Mr. Chairman, it has been contended by some interested parties that Congress is without authority to distribute the Chippewa funds now in the Treasury of the United States to the credit of the Chippewa Tribe. They have more than \$6,000,000 in the Treasury at this time. Congress has heretofore in an appropriation act in recent years, I believe in the appropriation act of 1916, made such appropriation and one-quarter of these funds were actually distributed to the Chippewa Indians. I approve of that action by Congress; I think all of these funds, except reserving enough for school purposes, should be distributed. I believe that Congress has ample authority under its powers and under the decisions of the Supreme Court to distribute all of these funds; and in order to make this matter perfectly clear to the committee, I am going to read part of the syllabus of the case known as *Lone Wolf v. Hitchcock*, One hundred and eighty-seventh United States Reports, page 553, as follows:

The provisions in article 12 of the Medicine Lodge treaty of 1867 within the Kiowa and Comanche Indians to the effect that no treaty for the cession of any part of the reservation therein described, which may be held in common, shall be of any force or validity as against the Indians unless executed and signed by at least three-fourths of all the adult male Indians occupying the same, can not be adjudged to materially limit and qualify the controlling authority of Congress in respect to the care and protection of the Indians and to deprive Congress, in a possible emergency, when the necessity might be urgent for a partition and disposal of the tribal lands, of all power to act if the assent of three-fourths of all the male Indians could not be obtained. Congress has always exercised plenary authority over the tribal relations of the Indians and the power has always been deemed a political one not subject to be controlled by the courts.

In view of the legislative power possessed by Congress over treaties with the Indians, and Indian tribal property, even if a subsequent agreement or treaty purporting to be signed by three-fourths of all the male Indians was not signed and amendments to such subsequent treaty were not submitted to the Indians, as all these matters were solely within the domain of the legislative authority, the action of Congress is conclusive upon the courts.

Reading further from this decision the last paragraph of the syllabus reads:

As the act of June 6, 1900, as to the disposition of these lands was enacted at a time when the tribal relations between the confederated tribes of the Kiowas, Comanches and Apaches still existed, and that statute and the statutes supplementary thereto dealt with the disposition of tribal property and purported to give an adequate consideration for the surplus lands not allotted among the Indians or reserved for their benefit, such legislation was constitutional and this court will presume that Congress acted in perfect good faith and exercised its best judgment in the premises, and as Congress possessed full power in the matter, the judiciary can not question or inquire into the motives which prompted the enactment of such legislation.

Now, Mr. Chairman and gentlemen of the committee, I have quoted that decision and placed it in the record so that this matter may be definitely settled that Congress has authority to legislate regarding Indian tribal matters; further in the case of *Cherokee Nation v. Hitchcock*, One hundred and eighty-seventh United States, 294, it was held that full administrative power was possessed by Congress over Indian tribal property; and in effect the action of Congress now complained of was but an exercise of such power, a mere change in the form of investment of Indian tribal property, the property of those who, as we have held, were in substantial effect the wards of the Government. We must presume that Congress acted in perfect good faith in the dealings with the Indians of which complaint is made. In any event as Congress possessed full power in the matter the judiciary can not question or inquire into the motives which prompted the enactment of this legislation.

If injury were occasioned, which we do not wish to be understood as implying, by the use made by Congress of its power, relief must be sought by an appeal to that body for redress and not to the courts. The legislation in question was constitutional and the demurrer to the bill was therefore rightly sustained.

Mr. ELSTON. Do you not think that the effect of that decision would be that the bureau should be extremely careful to observe the acts in everything they do?

Mr. MERITT. I think it makes it absolutely necessary for not only the Indian Bureau but Congress to be exceedingly careful regarding Indian legislation it is requested to enact. I can not impress too strongly upon the committee the importance of scanning with great care all the proposed Indian legislation because we have all kinds of propositions submitted which, if they were enacted by Congress, would result most disastrously and bring about great scandals.

Mr. Chairman, in Mr. Ballinger's statement he referred to the alleged waste of Indian funds in the Chippewa country. I have placed in the record a statement of all the employees in the Chippewa country paid out of Chippewa funds, showing their salaries, which are very meager, indeed, and it ought to be remembered that approximately one-third of these employees are Indians themselves; one-third of the employees in the Indian Service are Indians. Therefore, the statement that the Indian Service is operated to give jobs to white people is erroneous to the extent that at least one-third of the employees are Indians. We are cutting down the force in the field, and from now on there will be a gradual decrease of the number of employees in the Indian Service.

Mr. KELLY. Have you made computation in that statement showing the percentage of the money appropriated for the Chippewa Indians that goes to the payment of salaries?

Mr. MERITT. I have not reduced it to that basis but have placed in the record a statement showing all the salaries and all the positions paid out of Chippewa funds. We are gradually reducing the activities of the Indian Bureau in the Chippewa country, and if this legislation we have proposed is enacted, it will within the next five years very greatly reduce the activities of the Indian Bureau, and we are just as anxious to reduce these activities as any one else. We have been in process of reducing activities recently—thus in April and October, 1919, the Nett Lake and the Grand Portage superintendencies, respectively, were discontinued and the Indians placed under the Fond du Lac superintendency and a number of positions were eliminated. In September, 1919, the Vermilion Lake School was closed owing to lack of funds and the Indians in the immediate vicinity were placed under the Fond du Lac superintendency. In December, 1918, the Cass Lake Boarding School, which was run under an independent superintendent, was placed under the jurisdiction of the Leech Lake superintendency. In July, 1919, the White Earth Boarding School, and one of the day schools on that reservation, were discontinued.

This will show that there is a tendency to reduce the activities in the Chippewa country as quickly as conditions will justify. I believe Mr. Ballinger, himself, will bear me out in the statement that the Indian Bureau in the preparation of this report and in this draft of legislation before this committee, was exceedingly liberal in meeting the views of the Indians and cooperating to the furthest extent possible in meeting the situation in the Chippewa country so far as legislation was necessary.

Mr. BALLINGER. That statement is specifically correct but with reference to these reductions they were made at the instance of the General Council.

Mr. MERITT. They were made at the instance of the Indian Bureau. Reference has also been made to the recovery of swamp land for the Chippewa Indians. The Indian Bureau has worked on that proposition for years and has made a strong fight for the recovery of these swamp lands and it was due very largely to the work of the Indian Bureau, but I would also give to the Indians cooperating with us the credit that is due them.

Mr. HERNANDEZ. What is the area of these swamp lands?

Mr. MERITT. Over 100,000 acres. Mr. Ballinger made a statement regarding efforts in connection with the disposition of the timber in the Chippewa country and at my request was good enough to refer to the fact that that timber is not under the jurisdiction of the Indian Bureau. I am not affirming or denying that there has been fraud in connection with the disposition of that timber, but wish to impress upon the committee that the Indian Bureau is not responsible.

Mr. RHODES. Under whose jurisdiction is that matter?

Mr. MERITT. Under the jurisdiction of the General Land Office. The chairman of this committee asked me to make a statement in regard to the Fond du Lac School. The facts of the matter are these: The employees of the Fond du Lac School were transferred in September, 1918, and the school was then closed and has not been in operation since that time. Mr. Ballinger's statement in regard to that school was entirely incorrect.

Mr. KELLY. How many pupils were there at the time that school was closed?

Mr. MERITT. During the last year the school was in operation, there was an average attendance of nine pupils.

You will recall, gentlemen of the committee, the statement of Mr. Ballinger in regard to the general school situation in the Chippewa country. He almost had me convinced that we were wasting funds outrageously in the conduct of these schools, his plea being so very eloquent on that subject. But when we review the real situation we can find nothing about which there can be serious complaint. I find that in the Chippewa country we have at this time, among all these Chippewa Indians, consisting of 12,000, only five day schools: Nett Lake with an average enrollment of 29 and an average attendance of 25; Grand Portage with an average enrollment of 14 and an average attendance of 12; Pine Point with an average enrollment of 46 and an average attendance of 32; Round Lake with an average enrollment of 14 and an average attendance of 12; and Twin Lake with an average enrollment of 46 and an average attendance of 33.

Mr. RHODES. What do you mean by an average enrollment?

Mr. MERITT. That is the number of pupils who are enrolled during the year.

Mr. RHODES. Would it not be proper to refer to that as the total enrollment and not the average enrollment?

Mr. MERITT. We would have no complaint to make as to that change in the wording. Now, as to the boarding schools in the Chippewa country, we have at this time four Government boarding schools, Leech Lake with an enrollment of 66 and an average attendance of 34 at a per capita cost of \$251 and a total cost of \$23,184. Cass Lake boarding school with an enrollment of 54 and an average attendance of 34 at a per capita cost of \$136 and a total cost of \$5,639. Red Lake boarding school with an enrollment of 84 and an average attendance of 58, and Cross Lake on the same reservation with an enrollment of 80 and an average attendance of 57; these two boarding schools on the Red Lake Reservation cost per capita \$247, or a total cost of \$28,442, out of the funds of the Chippewas in the State of Minnesota.

In addition to these five day schools and four Government boarding schools we have contracts with two Catholic Mission schools, St. Mary's Catholic School with an enrollment of 71 and an average attendance of 53, costing the Chippewas \$5,292, and payable out of the Chippewa in Minnesota fund; and at the White Earth Reservation we have a contract with St. Benedict's Catholic School, which has an enrollment of 115 and an average attendance of 97, at a cost of \$9,525 payable out of the funds of the Chippewas in Minnesota; the contract price for the pupils in these schools is, if I remember correctly, \$108.

Mr. ELSTON. Does that include board and tuition?

Mr. MERITT. Yes, sir; but it should be borne in mind that this does not cover the actual cost of the service rendered.

Mr. KELLY. Those figures show 393 pupils enrolled in all at day and boarding schools; does that include all the children?

Mr. MERITT. The other children are taken care of in the public schools of Minnesota and we are going to discontinue these remaining

schools just as fast as we can do so with justice to the Chippewa Indian children.

Mr. KELLY. Would you say there was an opportunity for every Indian child to get education in the public schools who are now in these other schools?

Mr. MERITT. I believe that a large percentage of the children who are not in Government schools could be taken care of in the public schools, but it would not do to abolish these schools too quickly because there are not public-school facilities enough to take care of them all just at the present time.

Mr. KELLY. Are there any Indian children now with no opportunity for getting educational advantages in any school?

Mr. MERITT. We are having at this time a complete review of the school situation in the Chippewa country, and I can furnish you that information at a later date if you desire it then. Now, gentlemen, these figures are for the fiscal year 1919, and I think you will find them reasonably correct.

Mr. RHODES. Under your present plan affecting these schools, about how many years would it be before you can anticipate the Government will be able to abolish all these schools?

The CHAIRMAN. You are speaking with regard to the Chippewa Indians, Mr. Rhodes?

Mr. RHODES. Yes, sir.

Mr. MERITT. We have been abolishing the Chippewa schools at a very rapid rate in recent years but it will be some time before we can discontinue all the Government schools in the Chippewa country. However, I believe that within the next four or five years it will be possible to discontinue at least one half of the schools of the Government as now operated.

Mr. RHODES. What I want to know is whether the Government has definite plans in regard to terminating governmental supervision over these Indian schools?

Mr. MERITT. To this extent; that wherever it is possible to get the children in the public schools we take them out of the Government schools, and our plans, of course, will necessarily have to meet the school situation as it develops around the various Indian reservations. Take the White Earth Reservation, for example, if they establish public schools on the White Earth Reservation sufficient to take care of these Indian children, we will discontinue the schools there immediately, but on the Red Lake Reservation it will be some time before we can discontinue these schools on account of the conditions on that reservation.

Mr. ELSTON. How would this statement affect the legislation we are now considering? I do not understand the relevancy.

The CHAIRMAN. Are you referring now to the Fond du Lac item?

Mr. MERITT. I have already referred to the Fond du Lac matter. Mr. Ballinger in his statement attempted to create the impression that we had large areas locked up in the reservations in the Chippewa country contrary to existing laws and he quoted in part data found on page 286 of the hearings on the Indian appropriation bill of December 8, 1919, and referred to Fond du Lac as having an area of 39,567; Grand Portage as 24,191; Leech Lake 105,047 acres. I shall not continue to quote all the figures but the balance of the statement contains two others to which I want to refer; Red Lake 416,088 and

White Earth 442,231 acres. Now, Mr. Ballinger would have you infer that we have large areas of land located in these Indian reservations contrary to existing law, while this statement would make it appear, according to Mr. Ballinger's statement to the committee, that we are doing something illegal but the truth of the matter is that this statement refers to lands both allotted and unallotted within these reservations. Mr. Ballinger did not quote the White Earth Reservation of 442,231 acres as being held up illegally, because that would have been too absurd for the reason that everyone who knows anything at all about the White Earth Reservation knows that the entire reservation has been allotted, and also he did not state to the committee that we have a provision in this bill, which we submitted to Congress, which will authorize the disposition of all the surplus lands within these reservations except the lands absolutely needed for administration purposes.

The CHAIRMAN. I may be a little dense and no doubt am, but what would be Mr. Ballinger's object in attempting to show a situation like that, from your standpoint?

Mr. MERITT. I will answer that in a few moments when I close this statement in regard to the Indian schools. We believe we have in the Chippewa country schools that will compare favorably with other schools in the United States; we believe that the Indian schools connected with the Indian Service throughout the United States will compare favorably with other schools. We are conducting these schools at a cost very much less than the cost of other schools throughout the United States. You will bear in mind, gentlemen of the committee, that the per capita cost of these schools at this time, where we furnish board, clothing, books, medical attendance, and everything pertaining to these schools, is kept within \$250 on an average.

Mr. ELSTON. For how many months per year?

Mr. MERITT. Nine and ten months, and that cost you must recognize, in this day of high cost of living when food and clothing has advanced anywhere from 50 to 100 per cent in the last four or five years, is very reasonable, indeed.

Mr. RHODES. Not only reasonable but remarkable, indeed, if you are getting the service.

Mr. MERITT. We are rendering a service along educational lines that is unequalled in the school systems of the United States. In these Indian schools we have for years been doing things in training the Indian children that are just now being taken up by the most advanced public schools. For example, keeping track of the weight of the children. We have been doing that for the last 10 years. Also requiring a certain air space for the children; furnishing dental work for the children, furnishing physician service at these schools, and rendering this great service to these children at a cost that is indeed remarkable.

The CHAIRMAN. Remarkable for its cheapness?

Mr. MERITT. Remarkable for its cheapness and for its effectiveness, because when we take these children into the schools a large number of them can not speak English, but after a few years' training they go out as graduate speaking fluent English and capable of going into a white man's community and earning a living at good wages. We are turning out carpenters, blacksmiths, printers, painters, and, in

fact, mechanics of all kinds, and they go out in the States and take places in the community as trained mechanics. In order to indicate to you the appreciation of this splendid work of the Indian Service by people who know, who have investigated these schools, I am going to quote to you a statement made by Dr. Samuel A. Elliott, an honored member of the Indian Commission, who is not in any way connected with the administrative offices of the bureau, but his duties require him to see a great many schools and agencies. Dr. Samuel A. Elliott is a son of Dr. Elliott, president emeritus of Harvard University, is one of the best educated men, and has as broad and keen a mind as any man you will meet and knows what he is talking about always. This is what he says:

I can truthfully say, after mature investigation and deliberation, that the Indian system of schools in this country is the best in America, as the Indian system recognizes that education is not merely the accumulation of facts but the interpretation of facts and their application. The end of Indian education is not the acquisition of knowledge so much as the creating of power.

A statement of that kind from that character of a man, who has traveled over these Indian reservations and gone from Indian school to school and knows what he is talking about, should carry some weight with not only this committee but with the country at large.

Mr. RHODES. Is that opinion concurred in by members of the Indian Commission?

Mr. MERTT. I think it is.

Mr. RHODES. You have no diverse or conflicting reports on that subject?

Mr. MERITT. No, sir.

The CHAIRMAN. That does not signify that other members or other people have not had diverse reports on the schools?

Mr. MERITT. Not at all, because you will find diverse reports on every school and agency in the United States. As I pointed out yesterday, there are different factions on these various Indian reservations, and criticism is the most liberal thing you will find connected with Indian affairs. It is the easiest thing in the world to criticize and the hardest thing to execute.

The CHAIRMAN. What I had in mind was a letter we received from a superintendent, a friend of the Indian Commissioner, not in any way criticizing things.

Mr. MERITT. I understand, Mr. Chairman. Mr. Chairman, when I came to the committee room at the beginning of this hearing I did not intend to make a statement. I was simply going to be contented with submitting to the chairman the legislation we had so very carefully and patiently drawn after conferences with representatives of the General Council of the Chippewa Indians, their attorney, Mr. Ballinger, and after a conference with the Indians from the Red Lake Reservation and the attorney for the Red Lake Indians, Mr. Henderson, but after hearing the statement of Mr. Ballinger, and a very carefully prepared statement it is, which has required a great deal of time and attention to prepare it, and which he has prepared after conference with some of the shrewdest Indians in the Chippewa country, I felt it my duty to answer in this off-hand, unprepared, and extemporaneous way some of the misleading statements Mr. Ballinger has made. I have not time to answer all of them, but have tried to bring to the attention of the committee some facts in connection with Chippewa matters.

In conclusion, Mr. Chairman and gentlemen of the committee, in view of the general Indian situation I feel it is my duty to call a matter to the attention of this committee, not having in mind the members of the general council of the Chippewa Indians, or any other particular Indian in the Chippewa country, or Mr. Ballinger who has spoken here regarding the Chippewa situation. I want to make this statement with that distinct understanding: There is more propaganda in connection with the Indian Service at this time than at any time I have known since I have been connected with the Indian Bureau for a period of 15 years. This propaganda has been unusually active in Washington this winter for some reasons that we are unable to know all about. The Washington papers very frequently have contained statements during this winter regarding Indian matters that are wholly erroneous and tend to create wrong impressions. We do not know the source of this propaganda. For example, one of the Washington papers recently quoted a story about the cattle situation on the Blackfeet Reservation and the reading of that news item would convey the impression that the Indian Bureau had permitted 6,000 cattle to die on that reservation of neglect. It is known by everyone familiar with the situation in Montana that there was a severe drought in that State during the last year and there has been an acute situation among the cattlemen throughout the State and this also applied to the cattle situation on the Indian reservation; but the statement that we have permitted a loss of 6,000 head of cattle on the Blackfeet Reservation is absolutely untrue and absurd. There has been not to exceed 10 per cent loss on that reservation and that loss will compare very favorably with the losses of outside cattle owners in the State of Montana or any other State.

Mr. KELLY. That means how many cattle have been lost, Mr. Meritt?

Mr. MERITT. I have not the exact figures before me, but my impression is that the loss is considerably less than 500 head of cattle on that reservation. I am simply stating this as a sample, gentlemen of the committee, of the absurd statements that are being brought to the attention of Members of Congress at this time, and being published in the press of the country in regard to the Indian Service. This propaganda and this agitation has been actuated by selfish, venal, and vicious motives. There is a disposition on the part of some interested people who have selfish purposes in view to drag down the administration of Indian affairs in this country so that they can accomplish the ends they desire. For example, attorneys have gone out on various reservations and have made illegal contracts with Indians so that they can represent these Indians. They have not submitted these contracts to the Indian Bureau for approval because they know that the Indian Bureau will not approve such illegal contracts.

Mr. RHODES. Without declaring the names of the attorneys, can you not name some of the tribes?

Mr. MERITT. I prefer not to mention either attorneys' names or the names of Indians.

Mr. RHODES. I think it would be fair to the committee to make a full statement; perhaps you would not feel justified in naming individuals, but I think you could give us the names of the tribes.

Mr. MERITT. Our information is that contracts have been made, for example, with the Sioux Indians. The law now on the statute books regarding this matter requires that these contracts covering tribal Indian matters shall be made, executed, and approved in accordance with the provisions of law now on the statute books. We believe that a law of this kind should be obeyed; we believe that if these attorneys want to make contracts with Indians they should comply with the law. Our experience in the past has proven that it is dangerous for these contracts to be gotten through without compliance with the law. There have been exceptions to this in the past when there was lobbied through Congress certain laws which enabled certain attorneys to go to the Court of Claims without having contracts approved, and what was the result. The younger Members of Congress may not be familiar with these scandals, but if the new members of this committee will take this matter up with such Members of Congress as Representative Mann of Illinois, and men who are familiar with the actual situation several years ago, they will find that there were great scandals in connection with certain Indian legislation enacted by Congress.

The CHAIRMAN. What about the last appropriation bill? Was there any law in there that provided for situations where scandals could be committed?

Mr. MERITT. No, sir; I am very proud to say that since I have been connected with Indian legislation for the Indian Bureau I know of no legislation that has gone on the Indian bill that resulted in scandal, and there will not be without my calling it to the attention of the members of the Indian Committees.

The CHAIRMAN. You feel pretty safe in figuring that the committee would cooperate with you in that direction?

Mr. MERITT. I feel quite sure, Mr. Chairman, this game that is being tried to be played now in connection with Indian Affairs will be a failure.

Mr. RHODES. In the light of your statement that older members of Congress are more conversant with affairs generally related to Indian legislation and Indian Affairs than are the younger Members of Congress, having their attention called to some of these scandals and remembering what you said awhile ago that there is apparently organized propaganda tending to reflect on the Indian Service, am I justified in drawing the conclusion that this propaganda is recent among the Indians and has arisen from white people?

Mr. MERITT. My statement, Mr. Rhodes, was that the new members of Congress were not familiar with the scandals arising out of that particular legislation enacted several years ago. That is the reason why I referred to Representative Mann. He has made—

Mr. RHODES. I can see the truth in what you have said both as regards the experienced and inexperienced members, but what to be—

Mr. ELSTON. Do you not think that the propaganda is to discredit the bureau rather than to operate on Members of Congress?

Mr. MERITT. Both. In order to get this legislation through Congress they are attempting to break down the administrative function and influence of the Indian Bureau. Now, Mr. Chairman, in order to give a concrete example of the result of such legislation as I have indicated, I would call your attention to the fact that a few years ago there was gotten through certain Indian legislation not in

compliance with existing law, relating to attorneys' contracts and as a result of that legislation one firm of attorneys received fees in the amount of \$750,000. The Indian Bureau had nothing whatever to do with that attorney fee, but we have been very frequently criticized for it. Another fee amounted to \$250,000.

The CHAIRMAN. How much did the attorneys actually get?

Mr. MERITT. They got the money. You can always depend upon the attorneys getting their fee. In this case the attorneys got their fee of \$250,000 in cash and it was necessary for the Indian Bureau to come to Congress and get an appropriation for the judgment.

Mr. RHODES. Did they render service commensurate in any way with the fee received?

Mr. MERITT. They undoubtedly rendered service but I would not say commensurate with that fee. I know of no service at all commensurate with the fee in this case. In fact the Indian Bureau and the Treasury Department were called upon to furnish the information necessary to bring about a conclusion of this case by the court.

Mr. ELSTON. That law does not exist now that permits such thing?

Mr. MERITT. No, sir; if the existing law is carried out without exception—

Mr. RHODES. You did not tell me the source from which this organized propaganda came.

Mr. MERITT. You will readily appreciate, Mr. Rhodes, that I do not wish to furnish names in that connection.

Mr. RHODES. I am not asking for names. I want to know if it has arisen among Indians or white people.

Mr. MERITT. Both, but the principal offender, the man who will receive the greatest benefit if these contracts go through, a man who is exceedingly wealthy and quite able to carry on this propaganda, now has Indian representatives on a large number of reservations and also has Indian representatives here in Washington cooperating with him. He is not an Indian, but a white man; but he has Indians as his representatives.

Mr. ELSTON. You would call him the "Master Mind" as the detective story says.

Mr. MERITT. He is the "Master Mind," with a long purse.

Mr. BALLINGER. In view of the statement of Mr. Meritt, I would like to have him exonerate me.

Mr. MERITT. I stated in the beginning of this statement that I had no reference to Mr. Ballinger.

Mr. KELLY. There is something unfair about a blanket charge like this against the attorneys for the Indians, a large number of whom are giving good service, while it may be improper to name names, I think it improper to make a blanket charge of this character against all attorneys for the Indians.

Mr. MERITT. I have not charged all attorneys and have no intention of charging all attorneys. In fact, I have stated that the Master Mind is one attorney, and I do not care to mention names, but that organization has extended to a number of reservations, and the machinery is in full operation here in Washington at this time.

Mr. Chairman, in concluding my offhand, unprepared, extemporaneous statement in connection with these matters, I want to impress upon the committee and these Indians present what really has been accomplished for the Indians of this country during the last half century. As I stated a few days ago, we should bear in mind that half

a century ago a large majority of the Indians of this country were roaming the prairies of the west and were without any definite habitation.

The CHAIRMAN. Let us not go into all that; let us confine ourselves to the Chippewas.

Mr. MERITT. I am making my closing statement now, Mr. Chairman, and want to emphasize what has really been accomplished by the Indian Bureau for the benefit of the Indians. I want to show as a matter of credit to the Indian race itself that during the last 50 years there has been a greater advance in the progress of the Indian race than of any other race since the beginning of history.

The CHAIRMAN. The only objection to that is that on three specific occasions during the last three months the commissioner has made that same speech; it is a matter of record here, and I do not think it should be put in here again. I have no doubt you can do it much better than he, but I think we should confine ourselves to the case in hand.

Mr. MERITT. I will confine myself to the closing statement that the progress of the Indians during the last 50 years has been very remarkable indeed, and we are very proud of the rapid advance that the Indians of this country are making. It is our desire that all Indians progress just as rapidly as possible so that they can go as quickly as possible out from under the jurisdiction of the Indian Bureau. It is not the desire of the Indian Bureau to retain a single Indian under its jurisdiction who is capable of handling his own property, and we want to distribute their property among them as quickly as possible, so that they may enjoy full, free, and independent American citizenship.

The CHAIRMAN. Will you say now whether you recommend this legislation or not?

Mr. MERITT. We do recommend this legislation. Mr. Chairman, it is not all we would like to have, but it is as nearly a just compromise measure as we believe it is possible to draft at this time, in view of the many complications in the Chippewa country, and the many different views as to what should be done. I believe that the legislation as recommended by the department with amendments suggested by the department is reasonably fair to all the Chippewa Indians. Some provisions in the original bill were rather unfair, but as recommended by the department we believe that that legislation is just and should be enacted. I believe, however, that before it is finally enacted it should be gone over line by line, paragraph by paragraph, section by section, so that we may all have a thorough understanding as to its contents and make such changes as may be deemed wise in view of the facts brought out in this hearing.

Mr. ELSTON. Mr. Chairman, I was wondering how far apart the bureau representative and the representatives of the different factions of the Chippewas are with respect to this bill.

The CHAIRMAN. I will make a short statement. I think perhaps you were not here at the time. It was agreed in the beginning between Mr. Meritt and Mr. Ballinger that the counsel and bureau agreed upon approximately two-thirds of the meat in this bill; on the balance they are wide apart. The Red Lake delegation, who are here, must necessarily be a party to it and are desirous of passing this legislation as it stands to-day. That is the position we are in at the present time. The whole thing surrounds a spoken agreement and

legislation enacted in 1889. We have with us a gentleman who made the agreement, Mr. McLaughlin, and it seems to me we should hear from him.

Mr. MERITT. I have requested Maj. McLaughlin to come to the committee room with me to be heard at your pleasure.

The CHAIRMAN. Does the statement I have just made correspond with your understanding, Mr. Ballinger?

Mr. BALLINGER. I have examined the text of the printed draft of the department's bill and will state that there is only about 5 per cent of the printed text in controversy.

The CHAIRMAN. Then you have changed your mind somewhat since reading the bill?

Mr. BALLINGER. Yes, sir; after carefully rereading the bill.

The CHAIRMAN. I would like to ask the gentleman from the Red Lake Reservation whether he has changed his mind?

Mr. McDONALD. Mr. Henderson represents the Red Lake Indians and I represent them only as——

The CHAIRMAN. Well, then I will ask Mr. Henderson; we have heard your statement which was that you were unalterably opposed to it.

Mr. McDONALD. May I state that at that time we had not the bill H. R. 12072, I believe. Yesterday afternoon we had that bill in our possession and went through it and examined it; spent most of the afternoon going through it, section by section and division by division, and so far as the sections relating to the Red Lake Indians are concerned, the Indians expressed themselves as being absolutely opposed to that. In reference to the other two matters they have objections to some features of these two matters.

The CHAIRMAN. I want to ask a general question. Since the department counsel and the counsel recognized by the department are within 5 per cent of an agreement, and since you have modified your opinion materially since your last statement, is there any possibility that if you three elements had a day or two to discuss this matter you might get together on it and bring us back an agreement? I am not only asking that of you but of the other two interested parties as well.

Mr. McDONALD. In reference to the other bill it would seem as if there were matters in that bill that can not be reconciled. I did not know when speaking before that there were two bills. I thought it was all in one.

The CHAIRMAN. It is all in one; it is called a committee print.

Mr. McDONALD. As I understand it there are two bills, No. 12972 and No. 12973.

The CHAIRMAN. Now, there seems to be some confusion about the bill; the committee print is the original bill amended as per the agreement between counsel and the bureau and along with that is printed in sections 5, 6, 7, 8, and 9 of the jurisdictional bill.

Mr. McDONALD. That is not my understanding; No. 12972 is materially different from No. 12973.

Mr. RHODES. Why would it not be well for you to take a copy of the committee print and review that?

Mr. McDONALD. We have done so, but find that No. 12972 is different, especially in reference to the Red Lake and other matters. and as I understand it these changes were made by Mr. Meritt.

Mr. RHODES. What are your objections to the committee print?

Mr. McDONALD. We object to the section giving authority to the Indian Bureau to add to the rolls of the Chippewa Indians of Minnesota; also the means provided for the determination of compensation is wrong in many particulars. We think there are many people upon the Red Lake rolls who should not be there and that the first step should be to purge the rolls of these; we think some few, not many, who are off the rolls ought to be put on.

The CHAIRMAN. Just a moment. We are carrying this answer to my question too far. Now, the thought in my mind was that if there was any possibility of bringing the conflicting elements together, it might be wise to give you a few days to do that but if you have all of these objections—

Mr. McDONALD. May I state that the Chippewa Indians General Council reports that the question of competency should not be based upon blood status. We realize that there are many full-blood Indians most competent to administer their own affairs and that full-blood status is not the proper basis of establishing competency—

The CHAIRMAN. I have heard the statement made here that there were not any full bloods among the Red Lake Chippewas.

Mr. McDONALD. We take issue with that statement.

Mr. BALLINGER. This turns them all loose without relation to the kind of blood.

The CHAIRMAN. What is your opinion, Mr. Ballinger, as to whether or not the conflicting elements can be brought together by an intermission in this hearing for a couple of days?

Mr. BALLINGER. I think there are but two differences left to be settled. Whether or not the Red Lake Indians should be allotted and the reservation opened up, or whether nor not it shall remain as it is and the Indians remain in their present status. Upon that I am sure the General Council will never agree with the Red Lake Indians. The other question is whether or not the General Council, or whoever it is up there should have any say as to the administration of the law at all.

Mr. WILLIAM LUFKIN. That bill there is an agreement between the Red Lake Indians and the Commissioner of Indian Affairs. There is a protection there for Red Lake. Now, if we have an agreement to come together with Leech Lake, so that the will will be all right, I think we can get along all right, because in this hearing there has been nothing said about protection for Leech Lake Indians.

The CHAIRMAN. Your idea is that the bureau and the General Council agreed to protect Red Lake but did not agree to protect the Leech Lake Indians?

Mr. LUFKIN. Yes, sir.

Mr. BALLINGER. Leech Lake Reservation was ceded in 1889.

The CHAIRMAN. I think under the circumstances we will call on Mr. McLaughlin and let him start to tell us about this.

STATEMENT OF MR. JAMES McLAUGHLIN, INSPECTOR, DEPARTMENT OF THE INTERIOR.

The CHAIRMAN. How many years have you been in the service, Mr. McLaughlin?

Mr. McLAUGHLIN. Forty-nine consecutive years.

The CHAIRMAN. Now, Mr. McLaughlin, you have heard all the testimony here and understand exactly what we want to clear up.

You are one of the men who made this original agreement with the Red Lake Indians in 1902 and you represented the Government. You can tell us exactly what the Government had in mind as to how that agreement would affect the Red Lake Indians in their connection with the Chippewa band or tribe of Indians in Minnesota. Just go ahead in your own way and explain the matter and we will ask you some questions afterward.

Mr. McLAUGHLIN. I was commissioned in March, 1896, and was sent to negotiate a treaty with the Indians, under the act of Congress authorizing the Secretary of the Interior to employ inspectors for that purpose. I was engaged in that work exclusively for 16 years, and in the latter part of February, 1902, received orders from the Secretary to proceed to the Red Lake Reservation, under instructions which were prepared in the office of the Bureau of Indian Affairs and approved by him, to negotiate with the Indians for opening the reservation. These instructions were read into the record yesterday by Mr. Meritt, and it was along the line of these instructions that I proceeded.

I wish to have the committee understand that instructions for negotiating with the Indians invariably come from the department. I have never known the Indians yet who applied or were the originators of a desire to open any portion of the lands, and my instructions were prepared in the office and accompanied by a petition, as explained by Mr. Meritt, by two Senators and seven Congressmen from Minnesota and by a petition from the Commercial Club of Thief River Falls. I had all of these papers with me at the time and entered upon negotiations with them about the 3d of 4th of March, and continued for six days and concluded the agreement on March 10, 1902. The agreement was an excellent one and they accepted it and I went back in 1903 to endeavor to have them accept an amendment provided in an act of Congress of March 3, 1903, and they appealed to us a dozen times, "Give us the treaty we made with you; that is what we want." There are a number of gentlemen here who were present at that time; also I had one witness to the agreement and one interpreter. Here is the original agreement, even finished up by seals as directed. This I do not carry with me, but got from the files of the department. Here is my report on 71 pages of typewritten matter; the minutes of the council, and being 18 years ago, I had only a faint recollection of much that was said, but was pleased to see the way the Indians submitted questions they wished answered and also my replies to them. Here is 75 pages of typewritten matter of our negotiations of 1903; when I was sent out to see if the Indians would accept the provisions of the act of March 3, 1903; that is the Indian appropriation act, and in that act of Congress and in my agreement with the Indians it was provided by article 4, which I would like to read for the reason that I would like to refer to it from time to time.

ART. 4. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation shall possess their own reservation independent of all other bands of Indians and shall be entitled to an allotment of 160 acres of land each, of either agricultural or pine lands, the different lands to be apportioned as equably as possible among the allottees.

Now, in the Indian appropriation act of March 3, 1903, there were a number of changes made in other articles, but article 4 remains

intact as it was. The Indians, after long discussion, many of them old men, with Mr. Graves, one of my interpreters, absolutely refused to accept for two reasons; the method of payment was entirely different from that provided in the agreement and the amendment provided for donating sections 16 and 36, a tract of land opened for settlement, to the State of Minnesota. Several of the Indian speakers said: "We live in Minnesota; the people of Minnesota are our friends; the State officials are our friends, but we do not owe them anything and are not going to donate to them \$57,000 worth of land. Gen. Scott was opposed to the transaction all the way through and while he did not oppose it in my presence and came up and stood along side of me during the last four days of our council, he gave no encouragement to it. I think if I had been a Chippewa Indian at the time I would have negotiated just as they did.

The CHAIRMAN. I regret very much, Mr. McLaughlin, that at this important point in your testimony the time for intermission has arrived, and the committee, under agreement, has to hold up the hearing at this point until to-morrow morning at 10 o'clock.

(The committee thereupon adjourned until Friday morning, March 12, at 10 o'clock.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, March 12, 1920.

The committee met, pursuant to adjournment, at 10 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Gentlemen, we will resume the hearing where we left off last evening, with Mr. McLaughlin in the chair.

STATEMENT OF MR. JOSEPH McLAUGHLIN—Continued.

The CHAIRMAN. Mr. McLaughlin, will you proceed in your own way as you were, when we finished last evening?

Mr. McLAUGHLIN. Mr. Chairman and members of the committee, I would wish to impress upon you that in negotiating with Indians and large bodies of the Indians for the ceding of lands, it is a very important matter and requires a great deal of explanation and reexplanation. These are the minutes of the councils that we held at that time, and I would like very much that they be used. They are already recorded as Senate Report 1087, accompanying Senate bill 4962.

The CHAIRMAN. Are those minutes, as printed, available?

Mr. McLAUGHLIN. They are available.

The CHAIRMAN. It seems to me that if the minutes are printed and available, that it would be hardly necessary to print them all again, and I will be glad to consider the judgment of the other members of the committee.

Mr. HERNANDEZ. I would suggest that they be printed, because they will hardly be available now. That is about 18 years ago. I move that these minutes of these conferences be printed in the record.

The CHAIRMAN. The minutes of the Red Lake conference?

Mr. HERNANDEZ. Yes.

The CHAIRMAN. If there is no objection, so ordered.

AGREEMENT WITH RED LAKE AND PEMBINA BANDS OF CHIPPEWA INDIANS OF MINNESOTA.

April 12, 1902.—Ordered to be printed.

Mr. Clapp, from the Committee on Indian Affairs, submitted the following report [to accompany S. 4962].

The Committee on Indian Affairs, to which Senate bill 4962 was referred, recommends the following amendments:

Insert, after the word "agreement," on the second line of the sixth page, the following: "except sections 16 and 36 of each township, which are hereby granted to the State of Minnesota for school purposes."

Also, after the word "law," on the twenty-first line of the sixth page, the following "shall pay said sum of \$3.90 in five annual payments annually in advance."

And before the words "of the," in the twenty-third line of the sixth page, the following words: "the said five annual payments in advance and."

And as amended said committee reports favorably upon said bill and recommends its passage.

In support of the foregoing report the committee begs leave to refer to the communication of the honorable Secretary of the Interior, hereto attached, marked "Appendix A."

APPENDIX A.

[House Document No. 532, Fifty-seventh Congress, first session.]

LETTER FROM THE SECRETARY OF THE INTERIOR, TRANSMITTING, WITH A COMMUNICATION FROM THE COMMISSIONER OF INDIAN AFFAIRS, THE DRAFT OF A BILL FOR THE RATIFICATION OF AN AGREEMENT WITH THE RED LAKE AND PEMBINA BANDS OF CHIPPEWA INDIANS OF MINNESOTA.

April 4, 1902.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR.

Washington, April 3, 1902.

SIR: I have the honor to transmit herewith a copy of a communication of the Commissioner of Indian Affairs and accompanying copy of an agreement with the Red Lake and Pembina bands of Chippewa Indians of Minnesota for the cession and relinquishment to the United States of the western portion of the Red Lake Reservation, lying west of the range line between ranges 38 and 39 west of the fifth principal meridian, Minnesota, comprising 256,152.28 acres, together with copy of report thereon of United States Indian Inspector James McLaughlin, who negotiated the agreement.

The Commissioner has carefully considered the agreement and has prepared a draft of a bill to ratify and confirm the same.

I also herewith transmit a copy of a report of the Commissioner of the General Land Office, dated the 3d instant, to whom the matter was referred for report as to the disposition of the ceded lands.

The agreement meets with my approval, and I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK, *Secretary*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS.

Washington, March 28, 1902.

SIR: The office has the honor to acknowledge the receipt, by Department reference of the 22d instant, for report, of a letter from United States Indian Inspector James McLaughlin, dated March 18, 1902, with which he submits an agreement with the Red Lake and Pembina bands of Chippewa Indians of Minnesota, dated March 10, 1902, for the cession and relinquishment to the United States of the western portion of the Red Lake Reservation, lying west of the range line between ranges 38 and 39 west of the fifth principal meridian, Minnesota. The tract thus ceded comprises 256,152.28 acres.

On February 10, 1902, the Secretary of the Interior designated Inspector McLaughlin to negotiate with the Red Lake and Pembina bands of Chippewa Indians for the cession of the western portion of their reservation, under the provisions of the act of Congress of March 3, 1901. (31 Stat. L., 1077.) The section of the act referred to provides as follows:

"That the Secretary of the Interior be, and he is hereby, authorized in his discretion to negotiate through any United States Indian inspector agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress."

On February 12, 1902, a letter of instructions to the inspector in conducting said negotiations was prepared in this office. The instructions were approved by the Department on February 14, and were transmitted to the inspector on February 21. The agreement with the Indians, as above stated, is dated March 10, 1902.

Article I of the agreement provides for the cession of the lands, describing the same, approximating 256,152 acres; also for the removal to the retained portion of the reservation of the individual Indians residing on the ceded portion, and for the removal of the bodies of the dead buried on the ceded portion; and appropriates \$5,000, or so much thereof, as may be necessary, out of the consideration to be paid the tribe, to accomplish these purposes.

Article II provides that the United States shall pay the Indians for the cession and relinquishment of said land the sum of \$1,000,000.

Article III provides the manner in which the payments shall be made, namely, to the members of the tribe, share and share alike, \$250,000, within ninety days after the ratification of the agreement; the remaining \$750,000 to be paid in fifteen annual installments, the first payment to be made in October of the year following the payment of the \$250,000.

Article IV provides that the Indians of the Red Lake Reservation shall possess the diminished reservation independent of all other Chippewa tribes; also that when lands are allotted to them they shall be entitled to 160 acres each, including pine lands as well as agricultural lands.

Article V provides that nothing in the agreement shall be construed to deprive the Indians of the reservation of any benefits they are entitled to under existing treaties and agreements not inconsistent with said agreement.

Article VI provides that the agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians and when accepted and ratified by the Congress of the United States.

The agreement is signed by James McLaughlin, United States Indian inspector, on the part of the United States, and by 220 adult male Indians out of a total of 334. The signatures are duly witnessed and certified to by Daniel Sullivan, overseer in charge of Red Lake Subagency; Frank H. Kratka, mayor of Thief River Falls, Minn., and B. L. Fairbanks, of White Earth Agency, Minn. Joseph C. Roy, C. W. Morrison, and Peter Graves, interpreters, under date of March 12, 1902, certify that the agreement was fully explained by them to the Indians in open council, and that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians. Maj. George L. Scott, the acting agent, certifies that the total number of adult male Indians over 18 years of age belonging on the Red Lake Reservation, Minn., is 334, of which number 220 signed the agreement.

Inspector McLaughlin in his report states that in going to the Red Lake Agency to enter upon negotiations with the Indians he traveled by team from Thief River Falls, Minn., through about the center of the tract from west to east, and thus obtained a general knowledge of the character of the country and the quality of the land.

Respecting his work of conducting the negotiations, Inspector McLaughlin in his report states that the Indians received him very cordially, but were at first strongly opposed to considering any proposition for the cession of any portion of their reservation; that they expressed themselves as suspicious of every person sent out to talk with them about their lands; that their past experience, especially under the act of January 14, 1889, had caused them to be distrustful of everybody; that they had many grievances and just claims which they wanted adjusted before entertaining any proposition for the cession of more land.

He further says that after they had stated their grievances, all of which he assured them would appear in the minutes of the councils and thus be submitted to the Department, he reasoned with them very patiently, satisfactorily answered their questions, and explained to them the status of their many contentions, thus gaining their confidence and eventually concluded the agreement with them, which was accepted by all present at the closing council, numbering 220 of the 334 adult male Indians belonging on the reservation; that the signature of every Indian on the reservation could doubtless have been obtained if they could have been reached, as concurrence was practically unanimous after they had reached an agreement; that the Indians were unanimous in desiring those of their people who reside on the ceded portion to remove to the diminished reservation; and that the Indians residing on the ceded tract who

were present in the council announced their intention to remove within the diminished reservation, signifying their intentions so to remove in open council.

Relative to the character of the land ceded, the inspector states that, taken as a whole, they are excellent agricultural lands; that there are some marshes within the tract, the most of which, however, afford good grass and with drainage, which is quite feasible, most of the lands can be brought under cultivation; and that all the lands that can not be brought under cultivation would make good meadow lands by cutting the numerous beaver dams in the marshy tracts, thus permitting of drainage; that the hay lands would yield large crops of hay annually, the grass of the marsh lands being of an excellent quality. He further states that there are a great many extensive beaver dams in a good state of repair throughout the ceded tract which hold back the waters of winter snows and summer rains, thus submerging the marshy portions and lowlands, which if removed would drain the greater portion of the marsh lands and make them equal in value for cultivation to the higher and more desirable lands as they exist at present.

Inspector McLaughlin states that there is no pine timber on the ceded portion, but that there are a great many scattering small trees, chiefly poplar and oak, throughout the tract, each section of land containing more or less timber of this character sufficient on almost every quarter section to provide the homesteader with necessary fuel.

The consideration allowed the Indians is a fraction over \$3.90 per acre. Inspector McLaughlin states that he regards this as a fair and reasonable price; that it is true that some of the choicest portions could be sold at much higher prices, ranging from \$5 to \$15 per acre, and that some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but that, taking the entire cession as a whole, with its numerous marshes and undrained tracts, he regards the consideration as a fair and just price both to the Indians and to the United States. He also commends the method of its payment as provided in the agreement.

The inspector submits a list of families residing on the ceded portion, giving the name of the head of the family. Reference is had to his report for a list of the names. The families number 42, including 129 persons. As provided in Article I of the agreement, these Indians are to remove to the retained portion of the reservation within six months after the ratification of the agreement, and are to be paid in cash by the tribe, through the Indian agent, for their improvements, which they will be forced to abandon. The inspector estimates that it will take about \$4,200 to discharge this obligation. To this he estimates must be added \$800 for the removal of the dead now buried on the ceded portion, making a total expenditure of \$5,000 for these two purposes; these disbursements to be made out of the first payment to the Indians.

Inspector McLaughlin states that his trip by team from Thief River Falls to the Red Lake Agency, about 26 miles of which was through the ceded tract, afforded him an opportunity of seeing the improvements of the Indians residing on that portion of the reservation, as most of them lived adjacent to the line of road that was traveled; that he estimates an average of \$100 for each family for these improvements, making an aggregate of \$4,200; that some of the improvements are not worth to exceed \$25, others \$50, others \$100, while some are worth probably \$300; that to the \$4,200 thus estimated, \$800 must be added for payment for the removal of the dead who are buried on the said tract to the diminished reservation, which payments for improvements and removal of the dead should be made by the agent out of the first payment, as provided in the agreement.

In conclusion Inspector McLaughlin states that he regards the agreement as fair and just, and the best that could be concluded with the Indians; that the manner of the payment provided is the best for the Indians that could be devised that they would consent to; that he regards the ratification of the agreement as in the interest of the service, and recommends its approval.

The compensation to be paid the Indians, about \$3.90 per acre, is, in the judgment of this office, fair and reasonable. The office also favors its payment to the Indians in cash, rather than its expenditure in goods and supplies for their benefit. By personal conference with Inspector McLaughlin, it is learned that the Indians would not have listened to any proposition to pay them other than in cash. The distribution among the Indians of \$750,000 for fifteen years, as provided in the agreement, will give them an annuity of about \$37 per capita each year.

The office submits herewith excerpt copies of the map of Minnesota, showing the portion of the Red Lake Reservation included within the cession.

Believing that the agreement is just and fair and that it should be ratified, the office has prepared and submits herewith the draft of a bill to ratify and confirm the same. Section 2 of the proposed bill provides for the appropriation of \$250,000, being the amount necessary to make the first payment as provided by Article III of the agreement.

The question of the disposition of the lands ceded is properly one for the Department and the Commissioner of the General Land Office to determine. It is suggested that either the Department or the General Land Office prepare an additional section to the bill submitted herewith, providing for the disposition of the lands.

Besides the draft of the bill (in duplicate) there are transmitted herewith two copies of the agreement, two copies of the council proceedings, two copies of Inspector McLaughlin's report, and two excerpt copies of the map of Minnesota, showing the lands ceded by the agreement, with the recommendation that one copy of each be submitted to the respective Houses of Congress with recommendation for favorable action on the agreement.

The original agreement, Inspector McLaughlin's report, and the report of the council proceedings are also submitted herewith, with the request that they be returned to the files of this office when they shall have served their purpose before the Department.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
St. Paul, Minn., March 18, 1902.

SIR: Under instructions prepared in the Indian Office, dated February 12, 1902, approved by you February 14, 1902, and transmitted to me in Indian Office letter of February 21, 1902, I have the honor to transmit herewith an agreement, dated the 10th instant, entered into by me as United States Indian inspector, on the part of the United States, with the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, Minnesota, by which the said Indians cede to the United States all that portion of their reservation lying west of the range line between ranges 38 and 39 west of the fifth principal meridian.

The tract thus ceded comprises 256,152.28 acres, and is situated in 19 townships (7 full townships and 12 fractional townships), as shown by plats of the respective townships prepared in the office of the surveyor general of Minnesota, tabulated as follows:

Township.	Range.	Meridian.	Acreage.
151 north.....	39 west.....	Fifth.....	1,021.37
152 north.....	do.....	do.....	21,876.05
153 north.....	do.....	do.....	23,061.91
154 north.....	do.....	do.....	22,590.93
152 north.....	40 west.....	do.....	18,723.85
153 north.....	do.....	do.....	22,909.73
154 north.....	do.....	do.....	23,100.36
155 north.....	do.....	do.....	170.71
151 north.....	41 west.....	do.....	14.00
152 north.....	do.....	do.....	19,026.41
153 north.....	do.....	do.....	22,732.37
154 north.....	do.....	do.....	22,874.61
155 north.....	do.....	do.....	273.72
152 north.....	42 west.....	do.....	3,703.26
153 north.....	do.....	do.....	18,398.72
154 north.....	do.....	do.....	22,456.33
155 north.....	do.....	do.....	511.81
153 north.....	43 west.....	do.....	1,146.27
154 north.....	do.....	do.....	11,557.87
Total acreage.....			256,152.28

In going to the Red Lake Agency to enter upon negotiations for the cession of these lands, I traveled by team from Thief River Falls, Minn., through about the center of the tract from west to east, and thus obtained a very general knowledge of the character of the country and quality of the land.

The tract included in the cession, taken as a whole, is excellent agricultural land. There are some marshes within the tract, the most of which, however, afford good grass, and with drainage, which is quite feasible, most of those lands could be brought under cultivation, and all the land that would not be brought under cultivation by cutting the numerous beaver dams in the said marshy tract would be thus sufficiently drained to become good meadows, which would yield large crops of hay annually, and the native grass on these marsh lands is of excellent quality.

There are a great many extensive beaver dams in good repair throughout the tract, which hold back the waters of winter snows and summer rains, thus submerging the

marshy portions and lower lands, which, if removed, would drain the greater portion of the marsh lands and make them equal in value, for cultivation, to the higher and more desirable portions at the present time.

There is no pine timber on this ceded portion, but there are a good many scattering small-sized trees, chiefly poplar and oak, throughout the tract, each section of the land containing more or less of this character of timber, and sufficient on almost every quarter section to provide the homesteader with necessary fuel.

The consideration allowed the Indians for the cession is a fraction over \$3.90 per acre, which I regard as a fair and reasonable price. It is true that some of the choicest portions could be sold at a much higher price, ranging from \$5 to \$15 per acre, and some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but taking the entire cession as a whole, with its numerous marshes and undrained tracts, I regard the consideration, also manner of payment, as fair and just both to the Indians and to the United States.

The people of the Red River Valley are anxiously looking forward to the opening of these lands, and from the number of settlers now seeking homes throughout this section of the country these ceded Red Lake Reservation lands are certain to be in great demand as soon as they are opened to settlement.

The Indians received me very cordially, but were at first strongly opposed to considering any proposition for the cession of any portion of their reservation. They expressed themselves as suspicious of every person sent out to talk with them about their lands; that their past experience, especially from the act of January 14, 1889, had caused them to be distrustful of everybody; that they had many grievances and just claims which they wanted adjusted before entertaining any proposition for the cession of more lands.

After they had stated their many grievances, all of which I assured them would appear in the minutes of our councils and thus submitted to the Department, I reasoned with them very patiently, satisfactorily answered their questions, and explained the status of their many contentions, thus gaining their confidence, and eventually concluding the agreement, which was accepted by all those present at the closing council and concurred in by 220 of the 334 Indians belonging on the reservation.

The signature of every Indian of the agency could doubtless have been obtained if they could have been reached, as concurrence was practically unanimous after we had reached an agreement. The Indians were unanimous in desiring those of their people who reside on the ceded tract to come within the diminished reservation, and those of said Indians residing on the ceded tract who were present in the council announced their intention to remove within the reduced reservation, and thus announced their election in open council.

Payment for the improvements of those abandoning their locations on the ceded tract, also for removal of their dead, is to be made by the Indians of the reservation to the respective claimants, as provided by Article I of the agreement, after full discussion of the matter as shown by the minutes of the councils. The following is a list of Indians belonging on the Red Lake Agency now residing on the ceded tract who will remove to the diminished reservation, viz:

No.	Name.	Number in family.	No.	Name.	Number in family.
1	As sin e wa cum ig ish king.....	5	23	She na we yah bow eke.....	1
2	Kay she bah o sake.....	2	24	Mah nee.....	2
3	Ain du o ke zhig.....	1	25	Kay she baush king.....	4
4	Ke ne we guah nay aush.....	8	26	May mais se no wish king.....	8
5	Pe waush.....	7	27	Be wah be co we nay.....	2
6	Way oon dah Cumigish king.....	2	28	Gah gah mah nah quah oke.....	6
7	Nah wah cumig.....	1	29	Kay bay ke mew.....	6
8	Omah yah wah je waib.....	4	30	Wah je mah dub.....	6
9	May zhuske e ans se galk.....	1	31	Woon be be wun oke.....	2
10	Sho ne yah quay.....	3	32	May yah wab eke.....	1
11	Bay baum e ke zhig wahsh king.....	2	33	Bah she duay we dum oke.....	1
12	Shay nah wish king.....	3	34	Tay vah guash oke.....	1
13	Kah pe she shish.....	3	35	Way wah sum oke.....	2
14	Nah gah nah quah ung.....	2	36	O daun dah cum ig e mum moke.....	2
15	Gay bay gah bow.....	2	37	Kah ke way cum ig ish king.....	5
16	Bay de dway we dung.....	3	38	Ah be tah kay kakk.....	2
17	Kah ke gay ke zhig.....	2	39	Joseph Nedeau.....	3
18	Shah wun ah cum ig ish king.....	4	40	Mrs. P. Moyley.....	3
19	Undah wah we zoonce.....	2	41	Anna Wells.....	3
20	O mush kow ah cumig oke.....	3	42	Nay sah wah ji waib.....	2
21	Mis quah dais aince.....	2			
22	Kah ke gay be nise.....	5		Total.....	129

My trip by team from Thief River Falls to Red Lake Agency, about 26 miles of which was through the ceded tract and the Indians residing thereon being located along or adjacent to the road, I was enabled to see most of their houses and character of improvements, and estimated them at an average of \$100 each—\$4,200 for the improvements of the 42 families to be paid to the said persons in proportion to the value of their respective improvements, some of which are not worth to exceed \$25, others \$50, others \$100, while some of them are worth \$300. To this \$4,200 is to be added \$800 for payment of removal of the dead to the diminished reservation; who are buried within the ceded tract; which payment for improvements and removal of the dead to be paid for by the Indians through their agent out of the first payment made to them from the proceeds of the cession.

I regard the agreement as fair and just and the best that could be concluded with the Indians; that the manner of payment provided is best for the Indians of any that could be devised that they would consent to; that it is also in the interests of the service, and I respectfully recommend its approval.

Minutes of councils transmitted herewith.

Very respectfully, your obedient servant,

JAMES McLAUGHLIN,
U. S. Indian Inspector.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

PROCEEDINGS OF A COUNCIL HELD BY JAMES McLAUGHLIN, UNITED STATES INDIAN INSPECTOR AT RED LAKE AGENCY, MINN., WITH THE CHIPPEWA INDIANS BELONGING ON THE RED LAKE RESERVATION, MINN., WITH REFERENCE TO THE CESSION OF THE WESTERN PORTION OF THEIR RESERVATION.

Council convened March 4, 1902, at 1 o'clock p. m., with about 120 Indians in attendance. Peter Graves interpreting.

R. E. L. DANIEL, clerk in charge of agency. My friends, it is with very great pleasure that I introduce to you Mr. James McLaughlin, United States Indian inspector, who comes among you representing the United States Government on business which he himself will explain to you. I desire further to congratulate you upon having Mr. McLaughlin, a man who has spent his life among the Indians and whose knowledge of your people, your interests, and your needs is greater than any other man whom it has been my good fortune to meet in Indian work; and as your friend, for your own welfare, I ask you to consider well what he will say to you in this council.

Inspector McLAUGHLIN. My friends, an act of Congress of March 3, 1901, authorized the Secretary of the Interior, in his discretion, to negotiate through any United States Indian inspector agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratifications by Congress, and I, being one of the United States inspectors, have been sent here by the Secretary of the Interior to negotiate with you Indians of the Red Lake Agency for a portion of your reservation, which portion it is believed you do not need, and from which you are deriving no benefit. The tract of land that I am directed to negotiate for is the western portion of your reservation, and is situated in 19 townships, only 7 of which are full townships, the other 12 being fractional, lying along the boundary lines. The total acreage of the tract referred to is 256,152.28 acres, which is only a little over 11 full townships, about 11½ townships.

The tract of land that our negotiations will include is that portion of your reservation lying in Red Lake County, situated west of the boundary line between Red Lake and Beltrami counties, which line is about 14 miles in a direct line west from the most westerly point of Red Lake, as shown by the sectional maps prepared from the Government survey. The entire tract has been surveyed, and we therefore know the actual acreage that it contains, which is, as I have already stated, 256,152.28 acres. Plats showing the acreage of each of said townships and fractional townships have been furnished by the surveyor-general of Minnesota, and I have them with me; there is therefore no guesswork of approximate acreage, but we know the actual acreage as ascertained by survey.

Your present reservation approximates 800,000 acres, and the cession by you of the portion referred to would leave you about 544,000 acres, which is more than

ample for your needs. In order to obtain a personal knowledge of the land, I came here by way of Thief River Falls, and therefore drove through about the middle of the tract from west to east, a distance of about 26 miles, and thus obtained a very general knowledge of the character of the country and quality of the land, and my trip across the country, together with what I have learned from persons familiar with it convinces me that the greater portion of that land is good agricultural land, but there is considerable low, damp land, also some marshes, which portions are of comparatively little value unless the lands can be successfully drained.

There is also very little timber of any commercial value upon the tract; it is true there are numerous groves of small trees, mostly poplar, with some scattering small sized oak, which would provide abundance of fuel for settlers, also some material for log houses, but the chief value of that portion of your reservation lies in its being agricultural land.

I am not talking disparagingly of that tract, for I regard it above the average quality of land in such a low and comparatively level section of country, I simply say that it is not all good land, containing as it does, some marsh and damp land, and that the timber upon it is of very little commercial value, so that in considering the price per acre that the entire tract should bring, these facts should not be overlooked.

In the first place, I desire to ascertain your wishes, as to whether or not you are willing to dispose of this tract and if you consent to its cession we will then take up the question of price and manner of payment.

Now, my friends, I am here to get an expression from you as to your wishes in this matter, and having some discretionary powers vested in me by the Secretary in negotiations of this character, I will meet you fairly as to price and conditions of payment, but I desire to impress upon you that any agreement concluded by us has to be ratified by Congress before it is binding upon either the Indians or the United States, and must therefore be in accordance with the policy of the Government. Many of you doubtless understand the status of Indian-reservation lands, but that all of you may know, I will explain to you the nature of the Indian title to lands. The right of Indians to their reservations is that of occupancy alone; the vested right is in the United States, subject only to the right of occupancy by the Indians. This applies to reservation lands that are unallotted and held in common as your Red Lake Reservation lands are; allotted lands are different; they belong to the allottee and are held in trust for him or her by the Government for the period of twenty-five years from the date of allotment, and are exempt from taxation during the trust period, after which the allotment belongs to the allottee, with the right to do what he pleased with it.

Indian reservation lands held in common by Indians can not be sold or disposed of except to the United States; and while the fee or vested right to the lands is in the United States the right of the Indians to the occupancy is as sacred as that of the Government to the fee. Indians have a right to the use of their reservation and benefits of what it produces, whether from the results of their own labor or of natural growth, so that they do not commit waste. They are therefore simply tenants for life, having free use of the lands during their lives, and the same right passes down to their children and grandchildren, if not sooner relinquished to the Government, but, as I said before, they can not sell any such lands except to the United States, which sale is called extinguishment of the Indian title, and it is for the extinguishment of your title to the western portion of your present reservation that I am now here to negotiate with you.

My friends, the surplus lands of every Indian reservation will sooner or later be opened to settlement, and it is only a question of time until such will be consummated. It is coming as sure as the day succeeds the night, and the best course for Indians to pursue in every such instance is to make the best bargain possible in disposing of lands they do not need and provide for their wants from the proceeds. The Department who has charge of Indian affairs, and even the President who is our Chief Executive, are, owing to the pressing demand for homes for new settlers, powerless to prevent the opening of the surplus lands of Indian reservations, which the Indians do not actually need and can not make proper use of. Public opinion demands it and popular sentiment can not be overcome, and all that the Department can do in the matter is to protect the Indians by obtaining for them reasonable compensation for their surplus land. If you needed this tract of land that I am talking to you about it would be quite different, but you have no need of it and are deriving little or no benefit from it, and you old men should grasp the opportunity of profiting by the proceeds of its cession, which would provide for your comforts in your declining years; and you young men would thus be given a start that should, with reasonable industry on your part, place you in comfortable circumstances and on the road to independence.

It may be proper for me to state that I have made a great many agreements with Indians for the cession of lands during the past six years, and every agreement that I have made has been approved by the Department and ratified by Congress, except seven, which I have made the past year, which are now before Congress and will doubtless be ratified during the present session, and every agreement that I have made has been carried out to the letter as written. I am exceedingly careful in wording agreements, avoiding ambiguous expressions, so as to leave no possible chance for misinterpretation or misunderstanding as to the meaning of any word, and I believe this to be the principal reason why I am assigned to this class of work.

I am also very particular in the wording of my agreements so as to properly protect the Indians and the Government in the transaction.

This is my first visit to the Chippewa country. I have never visited any of the Chippewa agencies before, although I know of the Chippewa very well and have met many of your people in the past, and many of you doubtless know of me, and those of you who have heard of me must have learned that I am a firm friend of the Indians, having been continuously among the Indians in an official capacity for over thirty years, and I am glad to be here among you Red Lake Chippewas to negotiate with you for this tract of land.

We have met as friends and we must discuss this matter in a friendly way, and if we can not reach an agreement we will part as friends, so that if we ever meet again it will be as friends.

I am in a position to give you a good bargain and will meet you fairly upon any reasonable proposition. I wish to add that in case we conclude an agreement for that tract of land, those now residing thereon may take allotments where they now reside, or they may abandon those locations and remove within the diminished reservation, which latter course I would regard much the better for them, in which event a provision would be made in the agreement allowing them a fair price for the improvements that they would thus be obliged to leave on the portion ceded.

I have now explained the object of my presence here at this time and any of you desiring to speak I will be glad to listen to you, but if you desire time to consider the matter we will adjourn for that purpose. I am here to treat with you for the tract of land I have described, and will not hurry you in your deliberations, but will give you all the time you need to discuss the matter among yourselves. If you are not ready to reply now, I will hold myself in readiness to respond to your call and will meet you at any time you notify me to appear to receive your reply, or answer any questions regarding the matter which you may wish to know.

I will now hear anything you wish to say, or we will adjourn for a time so as to give you an opportunity to consider the matter in council by yourselves, as having presented the matter for your consideration I am through for the present.

KOI BAY NO GIN. We have now heard you, what you came to see us for. These Red Lake Indians have now understood what your mission is. We do not propose to answer you just now, we want to hold a council here in this building.

MR. McLAUGHLIN. Very well, we will adjourn, and I will hold myself in readiness to respond to your call at any time you send for me. I will be at Spear's Hotel or at the agency office.

Council adjourned subject to call.

Council reconvened Tuesday evening, March 4, 1902, at 7.45 o'clock.

MR. McLAUGHLIN. I am advised that you have sent for me, and I am ready to hear anything you have to say.

KOI BAY NO GIN. We have authorized Mays ko ko nay ay, one of our chiefs, to speak to you for us.

MAYS KO KO NAY AY. My friend, I will now tell you what all of us Indians here want me to say to you. The mission that you have come upon I don't mean to be contrary to. There are lots of matters behind that is blocking me, which the Government has done to me. When any official has been sent here to see me the talk they make to me is very nice and I have been cheated every time, and the Government is the one that has been sending these parties to me. I have been looking in that direction and expecting our wishes fulfilled and to receive what we have been promised. I know what has been promised me, and I know that the Government owes me considerable. I am still looking for those promises that the Government has made and expect them, and therefore I don't accept and we will not agree to what you propose. When the Government comes and hands me what has been promised me, and I know what the Government owes me, then I will consider. I am in fear now. The Government has caused me to be distrustful, and that is why your mission is a failure.

I now want to state one of the main matters that has blocked me. In dividing my property in four quarters the Government took away one-quarter of my property. All these Indians are of the same mind. We don't mean to be contrary. When I was in Washington year before last I called upon Senator Nelson and asked him who authorized the opening for settlement of some of my land, and told him that as he was there all the time he must know who authorized the opening of some of the lands and whether it was himself or the Government. He would not give me an answer. He simply walked out of the office without his hat. I am looking for an answer from the Department. We presented our grievances at Washington, and that is what I am looking for. This what I have said is the wish of all the Indians that are here. The Indians wish to make no agreement whatever until our matters are adjusted. When I was in Washington the Commissioner of Indian Affairs promised me \$27,000, but I have not got the \$27,000 yet. What is the matter that I do not get this \$27,000 that was promised me? Something more I want to say. When Hon. H. M. Rice came here and negotiated a treaty with us he promised us that we would get \$80 per capita of interest money from that treaty, the stipulation of the treaty he was making, and that for fifty years we would not have to take any allotments of land, and all these Indians that are here hold to that understanding. They don't want to take allotments. I reserved a piece of land; I reserved it for coming generations. This is all I want to say to you. In my talk we are just like one man, in that we are all of the same mind in these matters.

Mr. McLAUGHLIN. I want to ask you in relation to that \$27,000 that you say the Commissioner promised. What claim did that \$27,000 represent?

MAYS KO KO NAY AY. We went to the Commissioner of Indian Affairs, a different delegation from the other delegations, and we were told by him that we were to have \$27,000 for stumpage due us.

Mr. McLAUGHLIN. Now, you people seem to have gotten the matter of allotments somewhat confounded. I am not here to force allotments upon you people, although I know it would be for your own good. It would be well for you to take allotments. Each man would then have his own piece of land, and the improvements that he would place upon it would be his property alone. And while you people under your treaty are only entitled to 80 acres each, I could provide for you, in a new agreement, that you receive double that amount, men, women, and children; that is, in case we come to an agreement for the western portion of your reservation. I advise you to think of that well, for it will enable you to secure the very best land on the reservation, which can not be interfered with by anyone, and it is held in trust for twenty-five years.

Now, in regard to this piece of land that I have been talking to you about, it is a different proposition from any grievance that you are speaking of. I have known for some time past that your people had many grievances in relation to your dead-and-down timber, and that the matter is still unsettled, but there is no doubt but that will eventually be attended to and properly adjusted. That was a bill which was prepared in Congress and sent out to you for your ratification, and it is such as to be very difficult to interpret clearly and satisfactorily to the Indians, and at the same time meet with the requirements of the Treasury Department. Indians are naturally impatient and want all matters attended to too hurriedly, but you must bear in mind that this is a great country with an immense number of people to legislate for and a great many matters to be attended to, and it takes time to bring all things about. This is especially so with an agreement containing ambiguous expressions, that is, expressions that are difficult to understand where the same word may have two or more different meanings. The advantage in having simple, plain words in an agreement is therefore very great.

Now, any agreement that we may make for this tract of land, if we conclude an agreement, will be simple and plain and easily understood, and as there is only you people interested instead of all the Chippewa Indians of Minnesota, as in your last agreement, there would be no possibility of a misunderstanding in its interpretation or in carrying out its provisions. The difference in that treaty which Governor Rice presented here and my proposition is that his was enacted by Congress and sent here for your ratification without your having any say in its preparation, while you are a party to the agreement in my proposition. The agreement will be made on such terms as we shall agree upon, I representing the Government and you the Red Lake Chippewas. There is an old saying used by the whites that it requires two parties to make a bargain, and in justice to those interested both parties should have a voice in making the trade, and the Department, desiring to allow you people to have a say in this proposed agreement, has sent me here to talk with you and try and bargain with you for this piece of land. There are no people who cheerfully accept a bargain forced upon them against their will—something they have no voice in—and for that reason I have been sent here to present this matter and to consider it

with you and to talk it over until we arrive at an agreement; and I will reason with you and give you a fair and plain answer to all your questions.

I will say further that my negotiations with you people is for that piece of land, and I can not include any past grievances which you may have, but I would like to have you state fully and clearly what your grievances are and state the grounds upon which you base the same, and they will all appear in the minutes of our councils and will become a part of the printed document, if an agreement is entered into between us. While I can only guarantee and pledge my word for the truth of every statement that I will make regarding the negotiations that we are engaged upon for the western portion of your reservation, I promise to faithfully submit your grievances in my report. As for any agreement that we may enter into I know that it will be carried out to the letter, and as for the grievances that you speak of, I can only promise that I will do all that I can in presenting them properly, and if there is merit in them I have no doubt but that they will be adjusted in due time. Any agreement that we may enter into in regard to this tract of land will not in any way conflict with your claims; those claims will have the same status with the Department and with the Government no matter what the outcome of our negotiations in this matter may be; each stands on its own basis, and anything that there is right in, which, from what I have learned and heard, you may have in some of your claims, there is no doubt but that they will be adjusted in due time. On account of ambiguous wording in some agreements with Indians they puzzle the Department and are very difficult to explain.

Now, in considering this question in regard to the western portion of your reservation for its cession to the United States, we want to separate your other claims from that. Consider the one question at a time. Any agreement that we may enter into for these lands of the west portion of your reservation will in no way affect the claims that you speak of. Each of those individual claims will be considered and determined upon its own merits, and any agreement that we may enter into will contain a provision to that effect, which would be in words something after the form that I repeat: "That nothing in this agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements."

You people are land poor. What I mean by that, you have a great deal more land than you have any use for, and you are also poor otherwise; you have very little home comforts. I am prepared to give you a good price for this land and pay it all in cash, not all at one time, as I don't think it would be to your best interest to pay it all at one time. I would have the agreement provide to pay you one large first payment, which first payment to be made within ninety days after the agreement would be ratified by Congress, and the remainder of the amount to be paid in ten annual installments, every man, woman, and child to receive equal shares. Upon reservations where they have good grazing lands I always prevail upon the Indians to take some stock, so that they may start in stock raising, but here you have not got the range for cattle that they have west of the Missouri River, and, therefore, cash is better for you.

I have not expected that we would come to an agreement right away, and I am not in the least disappointed at the talk of my friend here who speaks for you people, for the reason that I knew you had many things which you wish to present, and I am ready to hear about those claims and grievances that you wish to have placed before the Great Father's council. It would be something unusual, something away beyond the ordinary, for us to meet and separate the same day, that we would conclude an agreement at once, or that you would decline to entertain a proposition.

You people have been very good in coming here. This has been quite a representative gathering, and I hope that you will consider this matter fully and deliberate upon it for some time. The fact that you have sent for me to-night and given me your answer without asking any questions convinces me that you have not given this matter full consideration.

As I stated to you this afternoon, in my first talk, we met here as friends and we will discuss matters in a friendly spirit, and I hope we can agree; if we can not agree we will part as friends, so that should we ever meet again it will be as friends. That is the wish I have. I am speaking to you as a representative of the Government in this matter, and have very friendly interest in your welfare. So has the President of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs. They have your welfare at heart, but they are powerless to do all things. Congress makes the laws and the heads of the Departments execute them. The Secretary of the Interior, whose eyes, ears, and tongue I am in the Indian work that I am engaged upon, desires the cession by you of this tract of land, believing that it is for your best interests. The Secretary has sent me here to see you with my eyes and hear what you have to say with my ears, and tell you with my tongue the things

that we think are best for you, and I am convinced that it is best for you to dispose of that western portion of your reservation.

I have the gratification of having my reports almost invariably accepted by the Department, and whatever I represent or report to the Department the Secretary usually approves; and in the committees of Congress any representation that I make in regard to Indians on any particular matter that I have been a party to my statements are invariably taken without question. That is what I meant to-day when I said to you that I am in position to give you a good bargain, because I feel that I can give you a better price and more favorable conditions of payment than any other person could, with a reasonable certainty of approval and concurrence by Congress. Therefore, my friends, I don't want you to close your ears and say you won't listen to any proposition for that tract of land. I want to hear the objections you have to this proposition. Your principal objections are past grievances, alleging that past promises have not been fulfilled. This cession, as I have told you, will in no way affect your old claims, but will strengthen them, for the reason that everything I say to you and everything you say to me here is being taken down by the stenographer and will become a part of the proceedings of our councils and of my report, and of the printed document if an agreement is concluded.

The 256,152 acres of your reservation which you do not need will amount to a large sum of money, and, as I said before, I am prepared to provide that the payment shall be in cash. It is a portion of your reservation that you have no use for. You don't need it; you have ample land without it; more than enough for you in the portion that will be reserved. You are deriving no revenue from the tract referred to. It is bringing you no returns, no benefits whatever, only a few of your people are living there and they are not prospering very well. The sale of that piece of land would provide for you old people in your declining years, and, as I said this afternoon, it would enable you young men to get a good start in life. I don't come here with a bill that has been enacted in Congress without your being consulted as a party to it or your voice being heard when it was prepared, but I come here to try and agree with you upon the price of the land and the manner of payment, so that you are a party to the trade.

My friends, I am very much pleased that you have sent for me this evening, that we might have another talk over it, and that I have been able to explain some matters that didn't occur to me this afternoon. You have been very patient in remaining here all this afternoon in this close room, and listening patiently to everything that I had to say, and as it is getting pretty late I feel that we ought to adjourn for this evening and meet again to-morrow morning. In the meantime you people can talk over this proposed cession and be prepared to-morrow to state the grievances that are uppermost in your minds so that it may appear in the minutes of our councils. And even if we make no agreement your statements will appear in my report and be submitted by me to the Department. The longer that I am with you the more I am learning of your business matters and of promises that have been made to you in the past which you say remain unfulfilled. I don't wish to press you, I don't wish to hurry you, neither do I wish you to hurry me, I desire ample time to explain matters fully so that you may understand me clearly. But I do wish you to remain here to-night so that you may discuss among yourselves the matters you wish to submit to me to-morrow. I mean the grievances you have been referring to. Will you do so?

ANSWER. Yes; we will be here.

Mr. McLAUGHLIN. I thank you very much for your attention and the patience you have had, and to-morrow I will listen to you patiently, and I hope that you will consider what we have been talking about to-night. After thinking the matter over myself I might have something more to say to you to-morrow. If you have nothing further to say to-night we will adjourn until to-morrow morning at 10 o'clock.

I wish to say in case you run short of provisions at any time, notify Mr. Graves, who will see that you receive what you need. I was advised by the Indian Commissioner that you would be subsisted while we were in council. In case the supplies should run short here at the agency, Mr. Sullivan, who I think will return to-morrow night, will doubtless be able to purchase provisions outside.

If you have nothing further to say we will now adjourn until to-morrow morning.

Meeting adjourned at 10 p. m.

Council reconvened March 6, 1902, 2 p. m.

Mr. McLAUGHLIN. My friends, you have notified me that you are ready to meet me. We have assembled in council and I am ready to hear what you may have to say.

KOI BAY NO GIN. We have assembled here again to come to an understanding. Now we meet here as friends. As long as we are here together we want to be as

friends, and after our councils are over we want to be friends. Mr. J. C. Roy is the man we have appointed to read the matters that we want to present to you.

J. C. ROY (reading; Peter Graves interpreting). In the treaty that we made in 1863 we ceded about 9,500,000 acres of agricultural land and we also ceded some pine land. The land that was ceded by that treaty we only got about 4 cents an acre for the whole; that is what we have received for it up to the present time; that is what the Indians received from the lands ceded by that treaty. This is one of the grievances in which we think there has been wrong done to us. The understanding we had in that treaty was that the reservation line was to begin at a point on the international boundary line at the Lake of the Woods on the western shore, and from thence to the head of Thief River; thence down the main channel of the said Thief River to its mouth on the Red Lake River; thence from the mouth of the Thief River direct south to the Wild Rice River; thence along the Wild Rice River to its head; thence from the head of the Wild Rice River along a creek which flows in from the east; thence from the source of this creek in a direct line to Portage Lake; thence from the east end of Portage Lake direct to the Mississippi River; thence following the main channel of the Mississippi River to Lake Bemidji; thence direct from the south side of Lake Bemidji, where the Mississippi River runs into Lake Bemidji, in a direct line north from the north end of Lake Bemidji; thence in a direct line north to Little Birch Lake; thence from Little Birch Lake in a direct line to the island in Black Duck Lake; thence from the said island north to the high ridge; thence from the termination of said high ridge in a direct line to the source of Muddy Creek; thence from the source of Muddy Creek in a direct line to the source of Black River; thence along the said Black River down to the Rainy River; thence following the main channel of the Rainy River to the international boundary line, and thence west along the international boundary line to the place of beginning.

That is how all of the old men understood the reservation line when they made the treaty. This was our understanding, and the line was entirely different when made by the whites.

What we want to ask you about is this: Who ceded the 13 townships on the southwest of the reservation, in Polk County, at and around Foston; who ceded that and who got the benefit for it? Was there any Indian got any benefit for those 13 townships? Who authorized the opening of those 13 townships? Whether the Mississippi Indians got any benefit, or the Red Lake, Pillagers, or any other Indians? I want to state to you all we know of this. We heard it was in three different ways. We understand that these farmers took this land, and then the pine men, and then again the Mississippi Indians.

How did Mr. R. B. Walker get possession of the pine lands along the southern boundary line within the reservation? Who gave authority to cut this pine timber? Who was it that got the benefit of this timber that was cut? And who was it that moved the line from this Little Birch Lake to Turtle Lake, that is called Little Turtle Lake by the whites? For a number of years pine was cut on the northern portion of our reservation by Canadian trespassers. We heard that the United States arrested these trespassers and had them prosecuted for cutting timber along the northern boundary line, and we have never heard if the Government had gotten any money from these trespassers. If the Government has got any money from these trespassers, we claim the money?

For the last twenty years there has been fishing going on along the lake shore inside our reservation in the Lake of the Woods by the whites, and we understand that the State of Minnesota was getting money out of those fisheries inside of our lines. If there is any money derived from those fisheries, we Indians claim it.

We were given to understand by the treaty of 1863 that we were to get annuity cash payments for fifteen years and we got cash payments for only fourteen years.

These are the grievances occurring out of our treaty of 1863.

Our understanding of the treaty of 1889 was that the diminished reservation line was to begin at the mouth of Thief River where it empties into Red Lake River thence following the old reservation line into Clearwater River; thence following up the Clearwater River to intersect a line commencing at Big Marsh and directly west to the Clearwater River; thence from the Big Marsh in a southeasterly direction to Rush Lake, thence from Rush Lake in an easterly direction to intersect in a direct line a point 1 mile from the most easterly extremity of Lower Red Lake, and from the point 1 mile from the most easterly point of Lower Red Lake in a direct line due north to a point 1 mile south of the south shore of the Upper Red Lake; thence east 1 mile clear around the east end of Upper Red Lake, where it would intersect a line commencing at the Little Creek branching off from Thief River, about 7 miles from the mouth of Thief River.

The understanding of the treaty of 1889 was that we were to derive \$1.25 per acre for all the agricultural lands that were ceded to the United States. And we understand that there has not been a dollar paid for these lands yet. And we understand

that we were to derive \$3 per thousand feet for all of the pine that was sold on the ceded reservation, and we understand that there has been over 600,000,000 feet of pine cut from the reservation that we ceded. We find that we haven't derived more than 65 cents per thousand feet for all this timber, calculating at 600,000,000. And there is lots of pine left standing that has not been cut on the lands that we ceded to the United States. And we were given to understand that we had the use of any ceded land that was not occupied by settlers, to be used as our own. And we furthermore reserved the privilege of using that as our hunting grounds as in former years. And we were given to understand that the Secretary of the Interior was to appoint men, good and honest, to estimate the timber upon the land that was ceded to the United States.

Now for an example of their estimating this timber. There was one lumber concern, Shevlin & Carpenter, bought 70,000,000 feet of this timber as estimated by these estimators, and when the lumber concern who bought it contracted to have this timber cut there was 300,000,000 feet contracted for and cut out of the 70,000,000 feet estimated. And there was another man, Bob McGinn, bought 80 acres of pine land that was estimated at 300,000 feet of timber standing on it, and he cut this timber, which scaled 1,100,000 feet, cut off of this land, that the estimators reported as only 300,000 feet. Another man, named Carter, took a homestead of 80 acres which had been classified as agricultural land, and he cut off of one 40 of this 80 acres over 800,000 feet of pine, which was classified as agricultural land.

One of our people, Ke me weum, stopped with the estimating corps at Ten Mile Lake for three days. The day he arrived at their camp it was snowing. He didn't see any of the men go out any farther than they had to go for their own purposes. On the third day, in the morning, one of them went out with him and walked out to about 200 feet from their camp, and when he came to a pine tree he sized the tree up and estimated how much timber there was in it and took out his little book and made notes of the same and walked back to camp. That was the amount of their work for three days that Je me weum was in camp with them. At another time he camped with the estimators at the mouth of Black Duck River, and while he was there in camp with them, an entire week, he didn't see any of them go out to do any work all that time.

Ah je dum stopped with an estimating crew down at Four Legged Lake. In the morning he stopped and waited for the estimating crew to move out to do some work. He stayed in the camp there waiting until 11 o'clock, and he got tired and went away before they got out. They were asleep yet when he left.

The school sections have been unpaid, and over ten years have elapsed since our 1889 agreement, and a part of the pine that was standing on these school sections has been cut off, and nobody seems to know who has cut the timber off. After everything was accepted and ratified in our treaty of 1889, we were promised that we would not be bothered to dispose of any more of our diminished reservation, and we were given to understand that after the expiration of fifty years the money that was derived from the ceded lands was to be paid over to the Chippewas of Minnesota.

Another thing that was done here since that treaty of 1889, over twelve years ago, one of the leading hired men, Ne guan ah quod, by name, of the Cross Lakers, asked the commissioners that came up to negotiate with the Chippewas for some pine timber lands, 5 miles above the mouth of Little Shotley Brook, and he was granted his request before the council. This we always thought and believed was within our treaty, and we find that they are cutting the timber off of this tract of land this winter.

On the last trip that the Red Lake Indians made to Washington they were told that there was \$27,000 accumulated out of stumpage money that had been cut in years gone by. They were told that this money belonged to them. They said we could have this money any time we asked for it. We have asked for this money twice now since that promise at Washington, and we want this money paid to us now. We want it paid to us equally in cash, every man, woman, and child.

Regarding the depredations committed by the Red Lake Indians and the Turtle Mountain Indians at the mouth of the Red Lake River many years ago, we want the Turtle Mountain Indians to repay one-third of that amount. The Red Lake Indians had to pay all at that time. The Red Lake Indians paid it all and the Turtle Mountain Indians did not pay anything.

Another thing that I want to call your attention to. There has been lots of timber thieves caught stealing timber off of both the ceded and the diminished portions of our reservation, and we have found out that these trespassers have paid for the timber that they have stolen, and what moneys that these trespassers have paid in we claim to be our own money.

Mr. Rice, in negotiating the treaty of 1889, promised the Indians that there would be only two steamboats on the lake and river; one would run between here and

Thief River Falls and the other would tow logs on the lake, and that any Indian who wanted to ride on that boat could do so without paying his fare. He could ride between here and Thief River Falls, and the other boat would be used for towing logs on the lake. All the Indians that lived down at Thief River Falls could come up here after their annuity payments and ride on the boats and would not have to pay any money in going from here to their homes, riding on the steamboats. And there is lots of boats on the lake and the river now running between here and Thief River Falls.

ME CAN KE BE NAIR. Well, my friend, you say that you are an inspector. I understand that you are in a position to help us; what we present to you about our grievances is our wishes. Well, my friend, what we have said to you is what we have been thinking about, and any white man that comes to us we shall never step over what we have presented to you.

Now we are ready to hear you, all that you have to say that you come to see us for. We want you first to give us some answer in regard to these grievances that we have placed before you.

MR. McLAUGHLIN. My friends, I am very much pleased with this statement that you have presented to me. I feel that many of your statements are well founded, and it is even known by the Department officials that you were very badly treated by the estimators that were sent out to appraise your land. And I am very much pleased that you have given me in regular order and in concise form the different grievances and claims that you have. It will enable me to report and present them to the Department officials in the exact words that you have given them to me, and anything that I can do toward helping you in the matter I will do it with pleasure. Now there are some matters that I wish to speak to you of, things that I noted down as your statements were being made.

The first is that of the 13 townships which you speak of as having been opened in Polk County, near where Fosston is; that is something that I am not familiar with. But the stenographer's notes here will bring it to my attention, and when I reach Washington I shall ascertain how that land came to be opened, and have you advised.

Now, as to your treaty line that you speak of; I notice that it is given by the agreement of 1863 as commencing at the point you stated and runs through to the Wild Rice River, and ceded all the lands lying west of that line through to the Red River; also the valley of the Red River over in North Dakota.

In regard to your timber that you claim was cut on this side of your boundary line within your reservation, I shall also ascertain what was done with the proceeds. I have the reputation of telling the Indians the truth, even if my words are sometimes unpleasant to hear, as it is better that they know the truth; better than honeyed words—more pleasing to the ear, but not true, and misleading—which eventually brings disappointment.

In regard to the navigation of your streams and lakes. The agreement that you made in 1889 clearly provides that all waterways within the reservation therein described are to be free for commercial purposes to all citizens of the United States. Nothing is said about number of boats, whether there is to be 1 boat, 2 boats, 50 boats or 100 boats. The waters are free to navigation. Free transportation on the boats that are navigating these streams should have been provided in the agreement to entitle you to it, but there is no such provision. If the commission negotiating with you promised you free transportation, they exceeded their authority. I have read the agreement carefully, and there is no mention of such in the act that you accepted. There is nothing binding on the United States except what appears in the agreement that is signed. I always make it a rule to make plain and truthful statements to the Indians when negotiating with them, for the reason that it is very wrong to tell Indians that which it is impossible to do for him or to make any promise that can not be fulfilled.

Any promise that I make to you here is taken down in shorthand, and after it is transcribed I will leave a copy of the proceedings of our councils with you, and you will learn later on that every word that I have said to you will reach the Department and receive attention. And I promise you that every statement that you have made here with regard to your grievances and claims will appear in my report in the order that you have presented them, and I will make a special report in reference to them, separate from my regular report, in case we enter into an agreement for the proposed cession, which special report will be in reference to your claims as stated to me, and I will follow them and see that they receive the attention of the Department. I expect to return to Washington from here and will make it a special point to call these things up whilst there. I am well aware that the matters you have been speaking of are somewhat complex; that is, they are puzzling; as I stated the other day,

they are perplexing, and it is the desire of the Department to have them straightened out as soon as possible, and your talk with me here regarding them will aid and assist the officials in bringing about an adjustment of the matter.

This paper that I have here in my hand is the proceedings of our last council, and I will simply repeat a portion of what I said to you during our last meeting in relation to these claims: "Any agreement that we may enter into for the western portion of your reservation will in no way affect the claims that you speak of, other than to aid in bringing them before the Department more forcibly." Each of these individual claims that you speak of will be settled and determined upon its own merits, and any agreement that we may enter into for a portion of your reservation will contain a provision to that effect, by incorporating in the agreement words something to this effect: "That nothing in this agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements."

The cession of the western portion of your reservation is an independent proposition and entirely different from what your last agreement was. This is something in which you people of Red Lake Agency alone have any interest: that is, provided you take advantage of my presence here and my readiness to meet you on common grounds and a fair proposition, and you don't want to keep your ears closed so as not to hear what I am going to say. You have an opportunity now to protect yourselves in a way that there are no other Indians in the country that can be better protected. Your agreement of 1889 does not protect you as a tribe and as an agency fully. There has been a certain tract of land described, and certain boundary lines within which you may take allotments, and under that agreement, which this book contains [indicating], the Government could at any time order allotments made to you, and all the surplus lands would be declared open for settlement under the same conditions that your other ceded lands are; that is, the pine-land portions that were appraised and sold for less than their appraised value, and the agricultural land opened to settlement under the homestead acts at \$1.25 per acre.

I am in a position at this time, having been sent here by the Secretary of the Interior, to negotiate with you, to make a bargain that will protect you and establish your undisputed right to the possession of this reservation, and no other Indians would have rights to the proceeds of this reservation but yourselves, while under the act of 1889 the surplus lands of this reservation, not required for allotments for yourselves and your families, may be thrown open to settlement, in which case every Chippewa Indian of Minnesota would have a share of the proceeds arising therefrom. In case we conclude the agreement that we are talking about for this tract of land of 256,152 acres, all of the proceeds of that tract goes entirely to the Indians of the Red Lake Agency. It would be so provided in the agreement. Another clause will provide that the remaining portion, after that is ceded, will belong to the Indians of the Red Lake Agency alone. You can see the way your lands have gone and the proceeds of the lands that you have ceded. There are too many persons of different agencies interested in it. Your present condition is unsatisfactory and tenure uncertain.

Bear in mind that I am talking to you of the cession of this piece on the western side, and I assure you that you would still retain your interests in the ceded lands that were disposed of by that cession of 1889, and that by entering into an agreement for this piece of land you forfeit no rights to those claims that you have presented to me to-day. They will be adjudicated regardless of any agreement we may conclude, and each will be determined upon its merits, and you will each receive your proportionate share of the money that has been derived, and will be derived, from the land ceded in 1889. Now, my friends, in the proposition that I make to you, you have nothing to lose and a great deal to gain. You will lose none of the proceeds of the ceded portion that is still unpaid, and if anything can be gotten out of the claims you present it will aid in having it brought about. You gain a very important matter by securing yourselves in your reservation, which will then remain intact, and I am prepared to allow you a very liberal price for that tract of land.

My friends, I told you the other day that the President of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs have your interests at heart and the interest of all the Indians, but that they are powerless to stop the tide of emigration and stop the opening up of the surplus lands of Indian reservations. All persons connected with the Department of the Interior, having charge of the Indians, are very desirous that I conclude an agreement with you for that tract of land, so that you may thus secure the residue that will be left, that is your reduced reservation. As I told you the other day, the entire reservation, as defined by that agreement of 1889, contains about 800,000 acres of land, the cession of that western portion which we desire would leave you about 544,000 acres, which would allow about 400 acres for every man, woman, and child belonging to your reservation.

The only object in the past for Indians to have large tracts of land was the advantage of having hunting grounds, but game is not only steadily but rapidly disappearing. When I first went among the Indians west of the Missouri River the plains were covered with buffalo. To-day there is not a buffalo in the country except a few that are in parks owned by cities and private individuals. The bear, otter, beaver, fox, and even the wolf are disappearing from the country. The people are very fortunate here in having a magnificent lake, which affords you a great many fish, but in a few years more there will be no game in the country. Therefore this tract of land that I ask you to cede is of little value to you as it is; that is, you derive very little benefit from it at the present time. The game will soon disappear and there is nothing there that you can realize anything from except to locate upon it and cultivate the land, but you have a much better country for your homes right here, within the proposed diminished reservation than you would out there, and you would be very much happier to remain here. You have a big lake to procure fish from and dense woods to hunt in near your home, while the tract that we ask you to cede must be cultivated to produce anything.

A reduction of your reservation to a reasonable area, such as a cession of that tract would leave you, would be comparatively safe. You would not be asked for any additional cession in the future—at least, not in the lifetime of some of you old people whom I see before me—and after the young men grow up and find that they have more land than they need they may offer to dispose of it, but that is in the distant future. With your reservation remaining as it is without reducing it by the cession of that western portion, you can rest assured that it will be opened up to settlement without your being consulted. It may not be this year, it may not be next year, it may not be year after next, but it is sure to come within a few years. The growth of this country is such that there is a great rush for land. More land is needed for homes for settlers, and the Department that has charge of the Indian affairs is powerless to prevent its being opened, as public sentiment demands it. And the public, through their members in Congress, their Senators and Representatives, demand that where Indians have more land than they require for their own use that they be paid a reasonable price for it and open it to settlement. That is why I say the President, the Secretary of the Interior, and the Commissioner of Indian Affairs are powerless to prevent it.

You are now in a position to protect yourselves in a way that very few Indians are; also to receive a large per capita payment for years to come. And if we agree upon a price for the land, there is no question but that we can agree upon the terms—that is, for the number of years that the payments shall continue. There are a number of you people before me that are getting old like myself, and by having something to provide for your declining years—the next ten years—would be a great benefit not only to yourselves, but to your families. Now, I want to have these notes prepared and have them reduced to writing so that I may read over carefully the claims that you have presented this afternoon. While I am having the notes transcribed I wish you would consider this matter in regard to the cession of that piece of land that I have spoken to you about. You have been very patient and have remained here under trying circumstances; the room is very crowded, and it is not the most desirable place for so many to be huddled together; but this is a matter to you, my friends, which is of sufficient importance to have you remain here a week, if necessary, and, as I said to you the other day, you don't want to close your eyes and say you won't look at the proposition, nor close your ears and say you won't listen to it, but you should consider the matter well and look at it from all sides.

Now, I have anticipated the continuance of this council, and I have procured two quarters of beef, which will be a change of rations for you this evening. I want you to remain here and discuss this matter fully, and from all sides, and meet me to-morrow at 10 o'clock; by that time I will have these notes prepared and have studied them over carefully.

I am very much pleased with our council this afternoon, and we will adjourn until to-morrow morning at 10 o'clock. I wish to add that I am talking now to the people of Red Lake Agency, and you are the only persons that are interested in this matter, and I don't wish you to be influenced or prejudiced in this matter by persons who don't belong to this reservation. It is to the interest of the Mississippi Chippewas, and those of Leech Lake and Cass Lake to influence you against consenting to any cession of lands in order to have you reject this proposition. If the lands were opened under the act of 1889 the Chippewas of Minnesota would all share in the benefit of these lands with you, and that being the fact they very naturally try to influence you against entering into a new agreement which would exclude them.

I know that you have received letters from parties advising against any cession.

Before I left Washington I learned that there were letters coming out here telling you not to consider any proposition presented for the cession of any portion of your reservation. Those people are not your friends in this matter. They have a selfish object in view, something in the back of that that you don't see. They want to get your lands opened under the act of 1889, by which the surplus money will all go into the common fund, and they receive a portion of the proceeds; but the proposition that offer you is for you alone; you are the only ones that will get any benefit from it.

We will now adjourn until to-morrow.

Council adjourned at 4.45 p. m.

Council reconvened Friday, March 7, 1902, 2 p. m., Charles Morrison interpreting Mr. McLAUGHLIN. Well, my friends, we meet here again. You have sent for me to give your answer. I am now ready to listen to anything that you have to say to me.

ME ZHAH KE BE NAIS. My friend, you told us that you are an Indian inspector. We want to tell you that we are going to meet you as friends. We have put on paper all that the Red Lake Indians want to say to you. Now we will state all that was put down in writing by us.

P. C. ROY (reading). The Red Lake Indians omitted some of their claims in the last session of our councils, in regard to the treaty of 1869. They are the following: The townships that are in question that we want to speak to you about is township 159, range 34.

There are people who took homesteads on this land. There is a homesteader that took a homestead, by the name of Katie McCarthy, and the estimate of her homestead was that it contained 1,200,000 feet of standing pine.

Another man by the name of Olaf Thompson has got a homestead in the same township, same range, that contains 250,000 feet of standing pine on his homestead.

Another man by the name of Tom Carey has a homestead in the same township same range, that contains 250,000 feet of standing pine.

Another man, Levi White by name, has got a homestead in the same township same range, that contains 500,000 feet of standing pine.

There was another man who took a homestead in the same township, same range Fred Sibley by name, that contains 800,000 feet of standing pine.

Another man that took a homestead in the same township and range, Charles Louis Hemming, and his homestead contains 1,500,000 feet of standing pine.

Another man, by the name of Samuel F. Beals, has got a homestead in the same township and range that contains 600,000 feet of standing pine.

There are also 15 more homesteaders in the same township that have pine standing on their homesteads. Their land contains all the way from 150,000 to 200,000 feet of standing pine on each homestead.

There is another township also—township 150, range 33—where there are 8 homesteaders located in the same town, and the aggregate of those 8 homesteaders is over 2,700,000 feet of standing pine on their claims.

There is another township—township 149, range 34. There are 55 homesteads taken in the said township, and they contain all the way from 150,000 to 1,000,000 feet of standing pine on each homestead.

In township 149 of range 33 there are 27 homesteads taken. That township contains about the same amount of timber; that is, each homestead has all the way from 150,000 to 1,000,000 feet of standing pine to each claim.

There were also some homesteads in the Battle River country that were classed as agricultural land, that estimated about 20,000,000 feet of pine on said homesteads.

There is another place, called Shotley Brook, where there are homesteads taken all of which had pine on them; but we only know of the amount that stood on three of said claims.

There was a man named Cowan who had a claim in that section of country that had 1,800,000 feet of pine standing on his homestead.

In that same section of country another man took a homestead, Dan Shaw by name, and there was 1,300,000 feet of standing pine on his claim.

There is another man who took a homestead in the same district, Pat Milan by name, that got over 2,000,000 feet of pine from it.

All these that we have mentioned as having contained so much pine timber were classed by the appraisers as agricultural lands and were thus secured by the settlers at only \$1.25 per acre.

This is all that we can put down on paper. It would take us two days, perhaps more, to figure up and state all the cases of like character. The claims we speak of were all upon the ceded Red Lake Reservation.

There is something that we want to ask you about what you said to us day before yesterday. The Red Lake Indians understood you to say that they owned simply half of their reservation and that the whites owned the other half, and this is a

question that we want to place before you, and we would like to find out the reason our Great Father takes in stepping on some of his own promises. What step has the Government taken to base its rights for a claim to our reservation? That is what the Red Lake Indians want you to make plain so that they can distinctly understand.

In our councils last night we made up our minds fully to place before you to-day in this session the minds of the Chippewas of Red Lake Reservation in regard to your visit here among us. The western portion of our reservation is the most valuable piece of property that our reservation contains. The reason we think that this is the most valuable piece of property we have is because there is no other land that we can call good farming land. In the course of ten years there will hardly be a standing pine tree to be seen in the State of Minnesota, also the game and fur will be very scarce in the course of ten years. It is all that the Red Lake Indians get their livelihood from, and after the game is all gone out of the country, all the fur, we don't know what we are going to live upon.

We are sorry to state that we don't know of anybody that we can place any confidence in to help us out in our troubles, although we are wards of the Government and the Great Father looks upon us as his children. You can easily see for yourself from the statement that we have placed before you what our treatment has been from former treaties. This is why we are obliged to take this stand: We think that it is best to protect the rising generations. We are told that we are looked after and protected by the Great Father as children, and we therefore mean to touch upon the tender part of his heart. That is why we have placed before you our grievances growing out of the past treaties, and we want our past grievances adjusted, at least some of them. And we want to tell you that our leading men of the Red Lake Reservation have made up their minds that they are not willing to pledge their words for the cession of the lands that you have been sent here to treat for. All that we can say is that we want our Great Father to adjust our past grievances before we negotiate any more treaties with him. We have also heard on the outside that you are going to offer us \$2.50 per acre for the western portion of our reservation. And we want to state to you the way we look at this—just like if we were going to buy money from you, all the money you had, and was going to offer you 12½ cents for every dollar that you had. If the leading men of the reservation consented to let any of their land go, they would like to have the right to place their own price on it.

SHAH WEUM AH CUM IG ISH KUNG. Well, my friend, you see that the room is full of Red Lake Indians. All of the Indians that are in this room, that you see here, say as it is written in this paper that has been read to you.

KAY GAY GAH BOW OINCE. Now, my friend, I am telling you that in your visit you make me. I have said all that I will say before you. What I have said now ends our councils about the land that you have asked us for.

Mr. McLAUGHLIN. My friends, you have asked me a question. You desire me to explain the status of Indian reservations. I explained that very carefully, and, as I thought, very plainly, at our first council, but I will state it again, so that it will be clear to you.

The title to Indian lands, Indian reservations, not only this Red Lake Reservation, but all other Indian reservations in the United States—the title of the Indian is simply the right of occupancy—that is, to use it—and the same right passes down to his children, but they can not dispose of the land to any person other than the United States. That is become of sovereign right, the general right in the United States Government in all the country. The Government don't want to take your land from you for nothing. There is no country on the face of the globe that has treated the people found in the country when the country was discovered, or taken by conquest, as our Government has treated the people found in the United States of America. All other nations, when they discovered a new country and conquered the people, have simply let them retain their homes; they have never given them large tracts of land nor treated them as a sovereign nation.

When you drove the Sioux out of portions of the country that you now occupy, you didn't give them a reservation within its borders. When the Sioux drove the weaker tribes out of that portion of the country west of the Missouri River they did not give them any land. But the United States have been very liberal, and have given every tribe of Indians homes on the land acquired by conquest or by purchase. There was set apart for each tribe rich tracts of country called reservations, over which the Indians have absolute control, and no white persons are allowed to come upon it without authority of the Government. And it has been the practice of the Government, from its first establishment, to treat with the Indians for any portion of their reservations that is desired to have opened up to settlement, and when the demand for more land is heard near any reservation, requiring the opening of land that is not needed by the Indians, treaties have always been negotiated with the

Indians for same. That was done to obtain what was called extinguishment of the Indian title to the tract of land negotiated for. This for the reason that under our policy of treating with the Indians, the Government could not give a patent with clear title to that portion of land to any person without such an agreement with the Indians to extinguish the Indian title; otherwise there would be a cloud on the title. Therefore I said, and I want you to understand, that all the territory in the United States is the property of the United States. The land in the Indian reservations, the military reservations, and all Government reservations are properties of the United States in a certain sense.

The Indian reservations are reserved for the Indians to occupy—that is, it is their land so long as they live, and so long as their children live after them—but they can not dispose of it. It is simply the right of occupancy. But, as I told you the other day, and as you will understand, the demand for land is increasing in this country. As the population increases lands become scarcer, and the more land is required. And when I say the Government in this respect, I mean the people; all the people of the United States are the Government. They elect members to represent them in Congress, and those members make the laws and represent the people, who are a part of the Government, and the demand of the people of the country is so great for more land that the representatives in Congress are obliged to listen to them. And, remember, as I told you the other day, that Congress enacts the laws and the President and the heads of departments execute them, but they can not do any more than execute the laws that are enacted by Congress. Now, I hope that I have made this question of Indian title to land understood by you.

I will say that the statements that you have made here to-day in conjunction with those that you made yesterday please me very much. They have been stated in very plain manner. As I stated to you yesterday, I fully believe that there is merit in many of your claims that you have presented, and I promise you, as I did yesterday that they will be forwarded by me and submitted to the Department with strong recommendations for action as promptly as possible.

I will say, my friends, in regard to the matter of the boundary lines as described by you, the boundary lines are fully defined by the treaties, and whatever they are in the treaties, are the only lines that will be considered. But I will present your claims just as you have submitted them to me, and I will report strongly upon them when I reach Washington, and will follow them up and have you notified regarding them. That is all I can do regarding the claims that you have presented.

Now, my friends, to return to the chief object of my visit here, which is the cession of the western portion of your reservation, I will speak to you very plainly. You have been living under the act of 1889 for over ten years past and you know how unsatisfactory it has been to you. And it is the only legislation now existing by which you are governed in regard to your land matters. Now, do you wish to continue under this act, or do you desire to be relieved from it by entering into a new agreement with me for the cession of this western portion of your reservation. This is of such great importance to you that you should be very particular in rendering your decision. You Red Lake Chippewas have always been a law-abiding people and have a very good name throughout the country, in consequence of which you have the sympathy of the Department officials; one and all regret your status under the present act.

There is just one of two things for you people to decide, the outcome of which will be with yourselves. Now, remember my friends, I am speaking to you from my heart as a friend. It is simply the truth, and I want you to take it as coming from a friend and one that has the welfare of the Chippewa Indians at heart. If you allow things to go on as they are, within a very short time an order will be issued for you people to take allotments. You will then have an opportunity to select allotments, and if you do not take them they will be allotted to you, and what lands remain after your allotments have been made will be opened to settlement under the act of 1889, for which you will receive \$1.25 per acre for your agricultural land, and should there be any pine lands you will receive for them the price provided by that act. As soon as that is accomplished the white men will flock into the country as thick as mosquitoes, and if you are prepared to meet that condition well and good. I am simply telling you what the outcome will be.

I am now going to make you an offer for your land. No person was authorized to speak for me as to the price I was going to offer you for this tract of land. No one knew my mind regarding it. Before making my offer I want to explain the price of land—the different classes of land. There is what is called a minimum price and a double minimum price. The minimum price is \$1.25 per acre, and that is for land that is outside of railroad limits. The double minimum price is \$2.50 per acre, and that is for land that is within railroad limits. That is the Government

price for land—what the Government charges the white man who files upon such lands—and if secured under the homestead law, which requires five years' residence and certain improvements, they are free to the homesteader.

Now, my friends, the offer that I am going to make you is the largest offer that I ever made Indians for any lands, and I have made every agreement in the past six years with the Indians of the United States, except two. Remember, the lands that I am going to make you an offer for do not contain any pine timber; they are essentially agricultural lands. Those lands, if owned out and out by the Government—that is, with full title in the Government—they would be sold for \$1.25 per acre to actual settlers. Now, I am going to offer you three times that much. I am going to offer you \$3.75 per acre, which means that you will receive \$960,670 for that tract, of which amount \$260,670 will be a cash per capita payment within ninety days after the agreement is ratified by Congress, and \$70,000 a year for ten years thereafter. There are 1,332 Indians now belonging on your reservation, but, calculating that births will increase that number to 1,340, it would be \$195 for each man, woman, and child for the first payment. A family of five persons would thus receive \$975 for the first payment, and the ten annual payments of \$70,000 each would give every man, woman, and child a little over \$52 each year for ten years.

My friends, when I left Washington, it was generally believed that I could procure those lands for about \$2.50 per acre, but I came through the tract and observed it closely, and have also made inquiry regarding the value of land in that section of country, and I have concluded to make you a good liberal offer in the beginning rather than to start at a low price and come up to that amount. That tract of land is not all good, but it is good average land and I regard it worth \$3.75 per acre, taken as a whole. I make this offer so that the Government is on record as having made you a very liberal offer for that tract of land, and I hope that you will see the wisdom of accepting it. If you reject this liberal offer with the payment all in cash, in eleven installments, which period of annual payments are believed to be best for you, you certainly will regret it.

If you would rather take your chances and receive only \$1.25 per acre for your surplus lands, such as the act of 1889 will give you, than to accept the \$3.75 per acre which I offer you, well and good; it is for you to determine.

My friends, when I was leaving Washington, just a few minutes before I started, I had a talk with the Commissioner of Indian Affairs in relation to this matter, and he told me to be liberal in the price allowed you for the land, and that he would approve it; that he was desirous of seeing you people of Red Lake Agency protected in every way possible. And he told me that I might have the agreement provide that you receive double the amount of land for allotments that you are entitled to under the present act. This is something which is well for you to consider. Under the present act it is doubtful whether you are entitled to allotments of pine lands; the rulings have been against it up to the present time, but I can provide for such in any agreement we may conclude. I am, however, not going to press the question of allotments upon you. I leave that entirely with yourselves, but I advise you to have an article incorporated in the agreement providing for the allotments of 160 acres each within your diminished reservation, as it will exist if we conclude an agreement.

With this offer that I make you for the land that we are negotiating for, \$960,670 in cash, I can provide for 160 acres each for your allotments within the reduced reservation if you so desire, and have the allotments either timber or agricultural land, it matters not which; it will be made to apply to either. However, if you do not want the matter of allotments touched upon, that can remain just as it is, but then you are only entitled under the law as it now stands to 80 acres each, and I can make provision giving each man, woman, and child 160 acres. And as I told you in our first council, I can provide for compensating those of you who now reside on that western tract, paying you for the improvement you have if you elect to come within the diminished reservation. You may remain where you are if you desire, but in the latter event you would have to take allotments there at once in order to hold your claims.

Now, my friends, I am here to try and have you understand this matter fully; it is the desire of the Department to protect you people. The cession of that piece of land under the agreement that I can prepare will provide for your protection upon the reduced reservation and will leave you people entirely independent of all other Chippewa Indians so far as your reservation is concerned and so far as this money is concerned, and at the same time you retain your share of the proceeds of the ceded land—that is, the lands ceded by the agreement of 1889. Now, it is for you to decide whether you want this protection that I offer you or take your chances under the act of January 14, 1889, whereby the proceeds of your surplus lands, after your allotments are made, will go into the common fund of the Chippewas of Minnesota, and

each receive a proportionate share, but my offer secures the proceeds of this cession to you Indians of Red Lake Reservation alone.

It is to the interest of the Indians of the other Chippewa agencies of Minnesota to have you reject this proposition so that these lands may be opened under the act of 1889, that they may thus share in the proceeds, and the selfishness of some of those people has been such as to try and prevent and discourage you in accepting any proposition or entering into an agreement for any of your lands.

I wish, my friends, that I could understand and speak the Chippewa Indian language as well as my friend the interpreter here. If I could I would remain with you here this evening in your councils and am confident that I could convince you of the wisdom of your accepting this proposition. The white people demand the land and the Department officials desire to help you and allow you the best condition possible, which is evidenced by what I have offered you. I am on record, and therefore the Department is on record, in the offer that I have made you of \$3.75 per acre, a very liberal offer; the highest offer I ever made for land. I never gave more than \$2.50 per acre for Indian reservation lands in any agreement that I have made, the most of them being for a great deal less.

Now, bear in mind when you are considering this that the offer that I have made you is a very liberal one. This offer will go before the Department and go before Congress, and they will see that it has been made to you; and I hope that you will not reject it. If it is accepted by you it may be a difficult matter to have it ratified, but I feel reasonably sure that it will meet the approval of the Secretary of the Interior and Commissioner of Indian Affairs, and also the committees of Congress—that is, the Senate and House Indian Committees. Now, my friends, I have given you something to consider. I have made you an offer. There is not a man in this room, looking into your faces, but I can see has sufficient intelligence, and interest in his own welfare and the welfare of his people and those of the rising generation, but desires to do what is for the best interests of all. And if you think it is for your best interest and the interests of your children and grandchildren and those coming after you to let the agreement of 1889 continue to govern your affairs, well and good; but if you think that this proposition that I have made you is best, then accept my offer.

In considering this offer remember very particularly that your agreement of 1889 gives you only \$1.25 per acre for all the agricultural land, and that the proceeds of the sale of your reservation within the boundary lines, all over what you require for allotments, will be divided among the whole of the Chippewa Indians of Minnesota. On the other hand my offer protects you in your reservation and gives you 160 acres of land each, in case you consent to take allotments, and gives you \$960,670 for you people of the Red Lake Reservation alone, which the other Chippewas have no interest whatever in.

My friends, I have endeavored to place this matter before you in its proper and true light. Every statement that I have made you here since our councils began has been absolutely true, and I defy any person to controvert any one of them. I hope you will see the advantage to yourselves and to your children, and those coming after you, to accept the proposition. If you reject it I feel that I have done my duty, and no blame can rest upon me or with the Government, whose representative I am in these negotiations.

As I said in my first council, and my friend Kay gay gah bow oince said the same yesterday, we meet as friends, and if we do not conclude an agreement we will part as friends.

You now have my proposition; it is for you to consider. The question is before you and I will be ready to hear your answer at any time. It is a matter that you should deliberate upon with great care; you should look at it from all sides before you come to a conclusion. While I am ready for your answer at any time, I would prefer that you take to-night to think it over. Discuss it among yourselves and give me your answer to-morrow. We will now adjourn until you send for me. I will be ready to meet you at any time you send for me. I would suggest that we place the hour of meeting to-morrow at the same time we met to-day. In the meantime consider my proposition and what I have said to you very carefully, and any time, be it to-night or early to-morrow morning, if you want to ask any question send for me and I will come.

I will not detain you much longer, and if you are short of provisions while you remain here in our negotiations call upon Mr. Graves, who will provide for your needs.

Meeting adjourned at 4.30 p. m.

Council reconvened Saturday, March 8, 2 p. m.

GAY BAY NO DIN. We would like one and all of the Red Lake Indians to understand what you have said in regard to these negotiations. One of our main spokesmen, who has been sick and not been in our councils heretofore, is here now and he wants to hear all that you have said to us and to speak to you and ask you a few questions.

Mr. McLAUGHLIN. It would be better for me to turn the typewritten minutes of our councils over to you and have the three interpreters remain here with you and explain each day's session. I will, however, state here for the benefit of those who have not been at all of our councils what my offer is. The tract of land that will be included in the cession, if we conclude an agreement, contains 256,152.28 acres. My offer is a definite lump sum—\$960,670—based upon the number of acres included in the cession calculated at \$3.75 per acre, and my suggestion was that the money be paid you in eleven payments, the first payment to be within ninety days after the agreement is ratified by Congress and the remainder in ten annual payments thereafter.

I stated that \$260,670 would be paid you in the first payment, and that it would leave \$700,000 to be divided into ten annual payments of \$70,000 each year for ten years. There are, according to the rolls of your agency, 1,332 Indians, men, women, and children, belonging on your reservation at the present time, and calculating upon eight additional for children that may be born, would make 1,340 persons, and for 1,340 persons it would be about \$195 for each man, woman, and child on the reservation for the first payment. The \$70,000 a year for ten years, divided among the same number of people, would give a little over \$52 per capita, it would be about \$52.20 a year for each man, woman, and child, each year, for ten years. Now, remember, I do not force this manner of payment upon you. That is for you to determine, if you would rather these payments to continue for fifteen or twenty years and have smaller payments each year, well and good. I only suggest this. It is for you to decide how you want it. If the chief who has been ill and unable to be present at our councils heretofore wishes to hear everything that has been said, I think the better way is as I have suggested. That is, take the minutes of our councils, which you people have a duplicate of, and have them read and explained by the three interpreters.

The matter is plainly presented there, and answers to all the questions propounded are given. I have the original of all our proceedings, which will be forwarded to the Department with my report and is in every particular the same as the copy you have. I have one copy for transmittal to the Department, and the other copy I turn over to you for reference. Now, it is for you to say whether you wish to have the interpreters explain them to you or not. I think it would be very well if you can take the time to do so. I will give you all the time that you need, because any agreement that we may enter into I wish you to understand fully and distinctly.

KAY GAY GAH BOW OINCE. My friend, it is very nice the way you have talked; it is a very good thing that everything that is said between us we are to distinctly understand, and to ask questions about the value of what you come to see us for. It is a very important matter what you come to see us about, and I am thinking over it very deeply. There is one question I want to ask you, and that is, Who was it that sent you here to see us?

Mr. McLAUGHLIN. The Secretary of the Interior, who is my direct superior. He represents the President of the United States in Indian matters.

KAY GAY GAH BOW OINCE. He gave you full authority?

Mr. McLAUGHLIN. Yes; full authority to negotiate an agreement with you people for the tract of land we have been talking about.

KAY GAY GAH BOW OINCE. Is there any authority given me that a proposition I make should be accepted?

Mr. McLAUGHLIN. That is what I am here to see you for, to discuss the matter with you. I have made you a proposition; you may make me a proposition. There are two parties to this trade; I represent the Government, who is one party; you Red Lake Indians are the other party.

KAY GAY GAH BOW OINCE. Well, my friend, the reason I ask you this, I have a good deal to say—lots of questions to ask. Are you positive that the proposition that I will ask you will be accepted?

Mr. McLAUGHLIN. I can tell better after I hear it. I couldn't tell until after I know what it is.

KAY GAY GAH BOW OINCE. I have sent two delegations to Washington. I sent them there to look after our matters. Our delegations to Washington came back here empty handed, scarcely anything to tell. This is what I want to understand. Maybe I have been doing wrong. My friend, there is another thing, I want to see

your written authority. I have never taken the pains to do as I am doing now when anybody has been sent here from Washington to see me. My friend, that is the reason that I have said that we must distinctly understand each other. Well, my friend, we now wish to see your authority to negotiate with us for our land, and these Indians will think it over.

Mr. McLAUGHLIN. I cheerfully comply with your request. Here is my letter of instructions, which I will have read and explained to you by the interpreters.

(Interpreters Graves and Roy read and explain inspector's instructions to the Indians.)

KAY GAY GAH BOW OINCE. I am very glad.

Mr. McLAUGHLIN. You see, my friends, that I want to have everything honest and straightforward, and I wish to say to you, as you may understand from the wording of my instructions which have been read to you, that large discretionary power is vested in me in these negotiations. I am simply directed therein to be fair to the Indians and just to the United States. The meaning of the words "fair to the Indians" is to give you a fair and reasonable price for your land and provide for manner of payments which will be the most conducive to your welfare. The meaning of the words "just to the United States" is, not to pay more than the land is worth and to have the agreement such as will meet the approval of Congress. The word "justice" also means protecting you in your just rights. As I told you heretofore, the people of the United States constitute the Government and you are part of the people of the United States.

Now you have the matter before you, my friends, and you certainly must understand it, because I have taken great pains to make it very clear to you. The lump sum, \$960,670, is based upon the number of acres included in the cession, at the rate of \$3.75 per acre. That makes the definite lump sum stated.

I have already said that any of you now located on that tract who desire to remain there may do so, and the price of the number of acres required for allotments for those electing to remain will be deducted from the lump sum offered. It would make that lump sum proportionately less. As a friend of the Indians, and having your best interests at heart, I would advise all to come within the reduced reservation. You can only protect yourselves on the ceded tract by taking allotments, and if you remain on that portion you must take your allotments at once. You then become full-fledged white men in every sense of the word, and you will have white men all around you. The only advantage that you will have over the white man is that your allotments will not be taxed for twenty-five years, during the trust period.

Now, my friends, you should understand the whole matter very clearly from the way I have explained it. If you have anything to say to me I will remain in council; if not, and you wish to consider this matter further, I will now leave the room and will return any time you desire to ask me any questions.

KAY BAY GAH BOW. Well, these men have listened to you; all that I called for from you. They will take the matter under consideration and have a talk among themselves this afternoon. There is something more that I want to tell you. The sum of money that you have been naming now; such promises as that is what I have been given in the past, naming great big sums of money to me. It is a shame the way I have been treated; for any man to come here and name big sums of money to me. I am glad that you are an Indian inspector. The money due us that we make complaints about, you must know why I don't get it. That is all I want to say in regard to these sums of money that you have been talking about.

Mr. McLAUGHLIN. I want to reply to my friend's remarks; they are very good. The sum of money that I offer is not based upon anything that is contingent, nor upon the appraisement of lands, nor upon the classification of lands, or anything of that kind. It is simply a trade. That is, you are giving so much land, for which the Government is giving you a definite amount of money at certain times. It is a straight business transaction with two parties to the trade. Men have not to be sent over there to see how many acres of land there are, or how many acres are good agricultural land, or how many acres are poor land, whether any of it is marshy, or how many acres of swamps there are. We simply buy the land for so much money, the poor with the good.

In considering this matter in regard to the cession of that piece of land and with reference to those who live on that tract of land, any of you who want to remain there, your names and the number of persons in your families should be given me so that I may calculate accordingly. If you remain there you have to take allotments, and your allotments will not be taxed for twenty-five years, but your personal property will be taxed. Within the reduced reservation it is different. Any of you located on the tract covered by the proposed cession who come in upon the reservation will be paid for what improvements you leave there—houses, fences, and any

other improvements. Each man will receive his own individual allowance. The payment for such improvements will not come out of the price I offer for the ceded tract; that will be made separate and apart from the land, and it will be so provided in the agreement. But those of you who remain out there must bear in mind that to hold your locations you must take allotments at once.

We will now adjourn until any time you send for me.

Council adjourned at 3.30 p. m.

Council reconvened Saturday, March 8, 9 o'clock p. m.

Mr. McLAUGHLIN. My friends, I understand you wish to see me, and I am ready to hear what you have to say.

SHAH WEUM AH CUM IO ISH KUNG. My friend, now is the time that we must talk together.

The authority that you have from the Government, I have similar authority from the Indians here. These Indians have talked over your proposition and have done a good deal of thinking over the matter. They have never heretofore done as they do now in making up their minds to do one thing. The way it has been heretofore the Indians have accepted anything that the white man has proposed to them. You have the authority and you want to make a success of what you are sent here for, and we want to be successful also.

Now, my friend, I will tell you what I think is the value of what you come to ask me for. This is the piece of land that I was keeping for my children that you are here asking me for. I value my land, that you ask for, at \$10 per acre. That will be the only price that I will be willing to sell that land for. As long as earth lasts that land will be there. There is a great deal of money derived from lands that have been ceded by those Indians, and that is why I have set this price on the land you have come to get from me. We are talking here together; God is listening to us; that is why I do not want anything but the truth. That is all that I want to say to you.

KE ME WUM. I will now tell you the wish of these Indians that you come to visit, about the property you ask for. My friend, you have asked from me a good deal of and. That land is very nice land. That land that you came to ask me for is the and that I thought the most of, and that is the only piece of land that we have on the reservation that is of that quality. And now we have made each other understand the values that we have set. Of course I know that you are white and that you have riches; that you know how to take care of your riches, and that is why these Indians have told you that they know why you want this land. After that land is plowed, that you come to ask me for, it will increase in value. There is something else on that land which, if we cut and secure, we can sell, and that is hay. Now, God is a witness to what we have said to each other.

Mr. McLAUGHLIN. I want to first ask my friend here if he did not make a mistake in the price he set upon the land. It don't seem possible that he means \$10 per acre, because that price is out of all reason. Now, my friends, I explained the matter very fully yesterday when I made you the offer of \$3.75 per acre. It is \$1.25 per acre more than I ever offered for Indian reservation land or ever had to pay for such a cession. When I made you the offer I did it with full knowledge of what I was doing. I drove over your land, through about the center of it, and over the best portion of it, along Red Lake River from Thief River Falls to this point. It would be a great pleasure for me to give you a higher price for your land if I thought it was worth more and thought that Congress would ratify it. I know there are men in Congress who will oppose it very much at the price I offer, but I believe a sufficient number will understand its value and accept my report upon it.

The Department officials, knowing me to be conservative, have confidence in me, expecting me to deal fairly both with the Indians and with the Government, and therefore don't hamper me much with instructions, leaving matters largely to my judgment, and the only fault found with me is that they think I sometimes allow too high a price for land. I can allow a higher price for your lands than a person who was not so familiar with the work, for the reason that from my many years' continuous service with the Indians my reports when they go before Congress receive due consideration. I believe in offering Indians a good price for their lands beginning, rather than start at lower figures and finally allow what should have been offered in the beginning. That is why I allowed you so high a price. I also offered to increase the acreage that you might take as allotments, doubling the quantity that you are entitled to under present laws. My friends, I am not insisting on your taking allotments at this time, but I want you to understand the advantages of having the privilege of taking double the amount of land that you are now entitled to when you do take allotments, and have a provision to that effect in any agreement that we

may make. This is a matter for you to determine, but I am advising you to accept such, as it will be for your best interests. Many of you old people may not care for allotments, but your children will need them, and to have the privilege of taking 160 acres instead of 80 acres will be of great advantage to all of you.

I am inclined to think that my friend who asked such an exorbitant price for the land a few minutes ago and with whom I have been talking Sioux must have been joking when he said he wanted \$10 per acre. If I should entertain such a proposition I would be regarded as having lost my reasoning faculties and would be called back to be doctored.

Now, my friends, I want to state another reason why I have been sent here without being hampered and tied down by instructions, which is that the Department believes me capable to negotiate an agreement that Congress will ratify; also that I know it would be useless for me to conclude an agreement with you people that would not be accepted by Congress, at least without reasonable belief that it would meet with approval. The price that I have offered you represents a large sum of money; if that money should all be in silver dollars, it would take a great many teams and wagons to haul it. Now, I will repeat the sum again. At \$3.75 per acre, that land amounts to \$960,670. The first payment would be made to you within ninety days after the agreement is ratified by Congress; that is about as soon as the money could be gotten around. It would be \$260,670 for the first payment, or about \$195 apiece for 1,340 persons, which would be 8 persons more than you now have on your rolls.

After the large first payment, it leaves \$70,000 a year for ten years. That is the amount for 1,340 persons as now on the rolls of your agency, and divided among that number would be \$52.20 for each man, woman, and child each year for ten years. You see my friends that this is a very large amount of money. In silver it would be over 31 wagonloads; it would be over 31 tons. The amount of money is very easily spoken, but if you think it over you will see what it represents. The great advantage of this payment is that it is a plain business transaction; it is not contingent or dependent upon any outside matter. The first payment would depend entirely upon when the agreement would be ratified by Congress. If I get this agreement before Congress any time within the next ten days, I hope to see it acted upon this session. Congress has two sessions. The first session is a long one, and the second session is a short one. This is the long session, and therefore no knowing when it adjourns. However, as soon as the agreement would be ratified you would receive your first payment within ninety days thereafter.

Now, My friends, I do not see how I can add anything more to my explanations. Everything that I have said to you up to the present time has been taken down here by the stenographer. Every word that I have said and what you have said is recorded here and a copy is left with you. It is unnecessary for me to say anything more, and I hope you will see the wisdom of accepting this liberal offer that I have made you. This is Saturday night, and I would like very much to come to some agreement with you this evening, that I might prepare the agreement. I never hold any councils on Sunday, but I could make out the agreements so as to have it ready to read to you Monday morning. It would take me some time to prepare it; it is several hours' work. The agreement would be written in duplicate, one copy forwarded to the Secretary of the Interior and the other left here at the agency. After it is signed by me, and by you people, and the witnesses, not a single word, letter, or punctuation mark of it can be changed without coming back for your concurrence. It has to be accepted entire, else rejected in toto.

One thing must be determined before I can write out the agreement, and that is to ascertain the number of you people, if any, who intend to remain on the ceded portion. If they all come in here, it is very simple. What I mean by being "simple" is that in case they all decide to come in the amount of money that I have stated to you will remain just as stated, but if any decide to remain on the ceded tract I have to allow 80 acres of land for each person so remaining. It will reduce the total amount proportionately, and we would not have to make any allowance for payment of improvements of the persons remaining there. Now, my friends, you have the question before you; it is for you to decide.

AID DUS O KE ZHIG. Well, my friend, I do not want to stay over there. I want to come home within the reservation.

MR. McLAUGHLIN. Every person that moves in from there upon the diminished reservation will receive a certain amount in proportion to the value of his improvements. Some of the improvements are better and worth more than others.

BAY BAUM E GISH E WAY SKUNG (GEORGE HYLANDING). Well, my friend, I will say to you what I think. I make my expressions just as these Indians here have talked matters over. We want the treaty of 1889 amended. We want to make

a treaty with you. We want to accept a treaty from you, if you can pay us a little more than what your offer is. I have my house over at Highlanding; I don't want to remain there. I want to come in upon the reservation.

Mr. McLAUGHLIN. I wish to say something now that will only interest those people who are living on that land that will be ceded. Coming through that section I noticed a number of well-kept graves along the way. The relatives will probably want to bring these into the reservation when they come. I will add to the price offered sufficient to pay for removing the dead to the diminished reservation, if they wish to bring them in here.

SEAH WEUM AH CUM IG ISH KUNG. One thing that has been making me feel very bad is that I have a grave out at my place. I did not want the white man to disregard the grave. I came up here from there some time ago, and a Norwegian set my house on fire and burned it up. The only thing that I have there now is the little garden that I had when I had my house. I don't want to stay over there. I want to come here. It is the wish of all the Indians to have us Indians out there to come in upon the reservation, and it is also the wish of all of us out there to come in.

GIE ME WEUM. We are not quite through with our talk with you. We have already told you about our former treaties and all that is lying around us. That is what we will attend to to-morrow. We have only said a little to you of what we want to say. One and all of us want this reservation that will be left here for us to remain intact for at least forty years, so that nobody can disturb us in that time. The coming generation will probably do different when they grow up. They will probably hear the old people talk about pine in their days. That is what we are going to leave to our children. We want to hold this land for forty years before it can be sold. If disposed of we have to give our consent to the Government.

Mr. McLAUGHLIN. My friends, you all look pleasant, and I feel pleasant also. I think we are just in the right humor for some of you to rise up and say that you accept my offer, and then designate about six men, two or three of your young men who speak, read, and write the English language and two or three of you old men, to come with me to the office and prepare the agreement, so as to have it ready for Monday morning. Remember, my friends, it requires the signatures of all of you people. You have been very patient in remaining here all week, but I want you to remain until I have your names to the agreement. After that you are at liberty to go to your homes. I don't want to tax your patience too far; but if you will remain here to-morrow and Monday, I would like it very much. I have arranged with the overseer, Mr. Sullivan, to get some beef and have it here Monday morning for you people, and I hope that those of you people here to-night will send for your friends who have gone home, or who have not been at any of our councils, so that they may be here Monday to sign the agreement.

Now, I put the question, Do you accept my proposition and will you appoint the committee to meet me to-morrow at 1 o'clock at the office to commence preparing the agreement upon the lines that we have been talking of?

(No answer.)

I wish to say that after the agreement is prepared it will be brought here in council and read to you. Every word will be explained to you, section by section and paragraph by paragraph, so that you will understand it before any of you are asked to sign it.

GAY BAY GOB BOW. We will excuse you for to-night, for we wish to stay here and talk over the matter.

Mr. McLAUGHLIN. I will retire from the council, and if you accept my proposal let me know, so that I may prepare the agreement, and I will say before bidding you good night that I hope you will see the wisdom of accepting my offer and come to that conclusion to-night, so that I can prepare the papers to-morrow.

Council adjourned Saturday 11.30 p. m.

Council reconvened Monday, March 10, 9.30 a. m.

Mr. McLAUGHLIN. My friends, we adjourned Saturday night, and I was expecting a reply sometime during the night, but am very well pleased that you have taken this time to consider the matter and that you have had two nights and all day yesterday to deliberate. You are probably ready now to give me a definite answer, and I am ready to hear your decision.

GAY BAY GOB BOW. When we were here together night before last we said at that time that \$10 per acre would be the prices we would ask for that land. There was a mistake made; we didn't mean to ask \$10; it was \$5. It was \$5 an acre that we meant, and therefore we want to put this price of \$5 an acre before you for your consideration; but if you will not give us \$5 per acre we will insist upon \$4 per acre, and will not accept anything less. We wish to hear if you will allow us \$4 per acre.

My friend, we have been meeting here for quite a long time now, and of course the Indians have wished to talk over matters, and find out which would be the best for them, and for that reason we have taken so much time. This year has been very uncomfortable and I think now that we ought to come to an understanding and conclude our agreement to-day if possible. We put this matter before you for your consideration, and we want you to think it over and see if you can agree with our wishes after you have given it due consideration.

Mr. McLAUGHLIN. My friends, we are now very close together as to price. It is certainly very gratifying to me to hear your proposition of this morning. It would afford me great pleasure to meet your wishes as to the price, and while there is some discretionary power vested in me in this matter, you must bear in mind that any agreement we may conclude must be such as will meet with Department approval and ratification by Congress. It would be absurd to enter into an agreement with you that I know would be rejected, and must therefore be such as I have reason to expect will meet with approval.

If you people will promise me to pay for the improvements of those who are now located on the tract ceded and have elected to come within the diminished reservation, also for the removal of the dead buried within the cession, I will make you another proposition. The amount that I am going to recommend for the payment for the improvements of those people is \$4,200 and for the removal of the dead \$800, making a total of \$5,000. If you will promise that out of the first payment made to you of this purchase money that every man, woman, and child (beneficiaries of the payment) will turn over to the disbursing officer who makes the payment the sum of \$4 each, so that he may pay to each of the persons to be compensated for his or her improvements thus abandoned, which will be paid to such persons in proportion to the value of their respective improvements and for the removal of their dead to the diminished reservation, I will make the lump sum consideration \$1,000,000. The first payment of which to be \$250,000 within ninety days after the agreement is ratified and the remainder, \$750,000, to be divided into fifteen annual payments of \$50,000 each. I make this offer as we are now so near together on price, and this is more than splitting the difference with you. The period of annual payments is extended in this offer to fifteen years instead of ten years, as in my former offer, but I think this longer period better for you, especially with the increased offer.

I have a list of the people who have improvements on the tract of land that will be ceded. There are 42 families, a total of 129 persons, on the tract. I intended to have an item of \$4,200 for the improvements that those people have done on that land and \$800 for the removal of the dead, making a total of \$5,000 to be paid to those people who come in here on the reservation. If you will meet that expense I will meet you part way on your proposition, and, in case you accept my proposition, the manner of payments will be somewhat changed from the suggestion that I made you in the first offer. My friends, you have been so good since we have assembled in our councils and been so patient and willing to discuss this matter so thoroughly among yourselves, and so very gentlemanly with me, that my heart has warmed for you very much, and I want to do the very best for you that can be gotten through Congress.

There are 1,332 of you people on the rolls to-day, and if each of you persons turn in \$4 out of the first payment it would make more than the necessary \$5,000. Turn this amount over to your agent for him to pay to those of you who abandon your locations in the ceded tract, in proportion to the value of the respective improvements. On those conditions I will give you an even million dollars for the cession (that is a fraction over \$3.90 per acre), of which amount I would have the agreement provide for the payment to you of \$250,000 for the first payment within ninety days after the ratification of the agreement, and figuring upon 1,340 persons, as in the other proposition, would be \$186.55 per capita for each man, woman, and child for the first payment, and the remaining \$750,000 to be divided into fifteen annual installments of \$50,000 each, which, figured upon a basis of 1,340 persons, would be \$37.30 per capita for each man, woman, and child for fifteen years.

Now, my friends, you have heard two propositions from me, the one of \$960,670 which I have offered you before, with \$260,670 for the first payment and ten annual installments for the remainder, and I will add \$5,000 to that first offer to pay Indians coming within the diminished reservation for their improvements on the ceded tract and for removal of their dead. You now have both my offers. In their first offer the Government pays for the improvements of those who abandon their improvements out there. My second offer is over \$39,000 more, but you are to reimburse the Indians coming in from the ceded tract, the amount of which is not to exceed \$5,000. My first offer provides for one large payment and ten annual

installments for the remainder. My last offer is \$1,000,000, with one large payment and remainder in fifteen annual installments. My last offer is \$34,330 more than my first offer, after providing \$5,000 for removal of the Indians.

Now, my friends, had you not been so patient and reasonable in your demands I would not have made you this offer, and it may meet with disapproval, but I hope my report in the premises will make it properly understood by the Department and by Congress, and that it will be accepted. A million dollars in even money; you can all keep track of that; there is no fraction of dollars in it. One-fourth of the entire amount—\$250,000—is for the first payment, the other three-fourths, or \$750,000, will be paid to you in fifteen annual installments of \$50,000 each.

My friends, I am very reluctant to make you this offer, but you have done your part real well, and I feel that I want to do the best I can to meet your wishes. Now, you can determine upon which of these propositions you will accept, and I am ready to prepare the agreement on either offer, but above this last offer that I have made it is absolutely impossible for me to raise one cent.

Council adjourned at 11 a. m., Monday, March 10.

Council reconvened Monday, 2 p. m., March 10, 1902.

Mr. McLAUGHLIN. My friends, I have responded to your call. I am now here to receive your answer.

WAM WAH WE YAZ CUMIG. I want to say a few words to you just as I think. It is twice now that I have come to the councils that you have been holding with the Indians here, and the first time I was here you was called on to show your authority. When your authority was read, I felt that I understood it thoroughly. I listened attentively to the reading of your authority to see if I could catch anything that would cause me to be afraid of anything, but I could not see anything of that in the authority when it was read to me. The authority that was given you, as it was read to me and as I understood it, you have the authority to come here and make a treaty with the Indians, one that will be fair to each side. Everybody was glad when they understood your authority, that in making the treaty it should be for the benefit of both sides, and anything done should not be unjust to either side, and that anything done should be for the good of both sides.

So, my friend, you don't want to be surprised if it takes us long to come to a conclusion, as we must think what will be the best for us to take. We will think of what you have said, and then we will make up our minds as to which will be the best for us. We don't expect to labor very long until we come to a conclusion. We are getting close to an understanding, and it won't be long now until we make an agreement. We have told you that you must take our proposition if we cede the land that you are asking us for, and must make the treaty on our proposition. There are a few more wishes that we are going to place before you for your consideration and to hear what you will say regarding them.

I do not think, if your authority had been otherwise than it is, that I would have sat in one place longer than a second unless you would have given me a new mind or have made a different man out of me.

I will now bring up the discussion that these men have had since you left this room. There is nothing outside that we want to talk about, only what we are talking about inside shall be included in our treaty. In regard to the division that you said would be made of the money coming from this treaty, we expect that all of it will be included in the payment, also to pay certain Indians for their improvements abandoned and for the removal of their dead. We had a general discussion in regard to the first payment that will be made. We discussed about the first payment and decided that each Indian should receive \$200, so we have placed it before you to hear if you will accept our proposition, and to figure up how much money we will receive for the balance of the fourteen years after the first payment. That is one matter that we want you to consider. We want \$300,000 for the first payment, and the balance, \$700,000 to be paid in fourteen years after that. This would also make the payments one year shorter than what your proposition is. As soon as we hear what you have to say to our last proposition we will have something more to say to you.

Mr. McLAUGHLIN. I am very much pleased that we are so near agreeing, and I wish to reply to the question of my friend. His desire is for a larger first payment. I considered that matter well before making you that last offer, and I reached the conclusion that this amount of payment was best for you. My offer for the first payment is just one-fourth of the entire purchase price, the remainder to be paid in fifteen annual installments. Now, if you will consider you will see the disproportion of what you are thus to receive with that you are to receive during the following fifteen years. It would not be to your interests to receive any more of the money

the first year than what I propose. In offering you \$260,670 in my first proposition I was simply getting rid of that odd money, the odd dollars. But when I increase the price of your land nearly \$35,000, I then had to make different calculations for the annual payments.

My friends, if there is any one thing that will be more of a stumbling block than any other in the ratification of this agreement it will be the large first payment. You will remember when you heard my instructions read the other day, that I was directed to be fair and just to the Indians and to the United States. I have not only been fair to you, but I have been liberal in price, and to be just to you I have to take into consideration that which will be of the greatest benefit to you in the manner of payment. My friends, that is a very large first payment. I have made the calculation, and it will be about \$186.55 for each man, woman, and child, figuring the number at 1,340 persons. It will be about \$932.75 for a family of five persons for the first payment. Then the \$50,000 annual payment would give each of you about \$37.30 annually for fifteen years. My friends, the proposition that I have made to you is far better than any other disposition that could be made out of those payments, and to provide for the payment to continue for five years longer than we first talked of influenced me largely in increasing the price, so that you old people would thus have ample to provide for your wants the remainder of your days, and with this means your young men had ought to be in comfortable circumstances by the time the annual payments terminate.

I have been very liberal to you, my friends, in the offer that I have made, both as to price and manner of payment, and you must at least give me sufficient ground upon which to base an argument that would probably carry the agreement through Congress, but to give you the large amount of \$300,000 in the first payment I would fear the outcome. You will see, my friends, that my proposition will be best for you after considering it, and much as I would like to meet your wishes in the premises, it would not be advisable, and I therefore can not consent to your request. Remember now we have reached an agreement as to price, and the manner of payment that I propose is for your best interests. The agreement will protect you along the lines that we have talked of in our councils, and I therefore hope that you will see the wisdom of accepting it without further question.

WAM WASH WE YEZ CUNIG. Well, my friend, I will now place before you what we are ready to say. In my treaty here I only want to say, before we have the treaty written out and prepared, that I give you the land that you come to ask for. I cede that land to the United States and also accept your proposition in the manner you have proposed that the money shall be paid to us. Now we will commence and place before you our proposition which we wish to have included in the agreement we make with you. When we conclude a treaty here between us we are aware that it is not binding upon us until it is ratified by Congress, and of course we will have a copy of the agreement and after Congress ratifies the agreement we will know that the agreement is binding, and we will expect that every clause in the agreement will be binding and that it will be fulfilled. In placing before you our proposition which we wish to include in the agreement there will be certain matters which we will insist upon, which we wish very much should be included in the agreement.

In making the agreement we wish an article included that in case the Government should not fulfill the promises, or if we should miss any of the promises that you have made here, which our treaty will show, we wish to have the privilege of going to Washington to let the officials know what we think is missing. We want it also stated in the agreement that when the agent comes to make the payments we want the money divided among the Indians—we don't want any money left unpaid. We wish some of our young men who can read and write to see that all of the money that the agent is authorized to pay us is equally divided among us. I don't think it has been done heretofore in payments to the Indians. Our wish is that every cent of the money will be divided among the Indians, and we don't want anybody to stick any of it in his pocket. My friend, we want to understand each other fully what our wishes are. We are prepared to close our treaty to-day and make an agreement with you, but we want to make a good agreement. We have set before each other certain propositions, and I wish them to be included in the treaty. After we have the agreement written out and before we commence to sign it we want to place our grievances before you. We will have these things written out and ready. The act of 1889 will be one of our grievances. The treaty that we are going to make is going to be a new law, and the grievances that I refer to is on account of the act of 1889. After we have submitted these different things we will be ready to sign the agreement, which, however, will not be binding until Congress ratifies it.

GAY BAY GAH BOW OINCE. You have listened to the man who has just got through talking. He was authorized to talk to you. The territory that he spoke about was the property that we thought the most of. This is one reason why we want to make

a good treaty for it. The reservation that will remain after ceding the western portion we wish you to do all in your power to help us hold it as a permanent reservation. This is the main thing that we wish to include in the agreement; that we are going to hold this reservation. It must be distinctly understood in the agreement that we shall hold this reservation after we have ceded the land you are asking us for.

Mr. McLAUGHLIN. My friends, I wish to say that I am very glad to have our friend here, who has been so ill, and that he is able to be with us to-day. He has presented your case in a very commendable manner; and I will have words in the agreement that will, as far as possible, cover the points raised by your speakers. As I told you the other day, I prepare my agreements with great care, so that every word will have but one meaning, no two or more meanings to the same word. I have already been thinking of this matter a great deal and have considerable of the agreement prepared.

I will now go to the office and write out the agreement in full, and will make two copies of it, one of which will be left with you. When it is prepared and ready for your signatures, I will bring it here and have it interpreted to you section by section so that every word of it will be understood. It will be on the lines that we have discussed and the conclusions we have reached. When you have heard this agreement read you will see that it covers all important points. In regard to your claims that you speak of we have them all down in our minutes, which you have a copy of. The minutes of our councils show your claims as stated by you, and will go forward with the agreement. And apart from this, I will submit the substance of them as promised when I said if we concluded an agreement, your grievances would not only be submitted in the minutes of our councils, but that I would also refer to them in a special report.

My friend raised the question about the entire amount of money that you would be entitled to under the proposed agreement. I will explain that. I make all my agreements read very clearly and you would understand yours. There can be no mistake about the payments, for the reason that each payment for a certain amount of money would be distinctly provided. You all know that you would receive \$250,000 the first payment. Any of your young men who can read and write, and there are a number of them here, can take the rolls and ascertain the number of people that are going to share in the payment, and divide the total amount of money by the number of persons, and you then have exactly the amount each one should receive. The entire amount will be paid out equally among you, not one dollar of it will be returned to the Treasury. The same applies to the subsequent payments, the following fifteen annual installments. You can divide the amount of money by the number of people and find out whether you are getting the right amount of money or not. I am very glad, my friends, that your speaker has raised this question, as it has enabled me to explain it to you. I have now answered all of your questions and will proceed to the office and prepare the agreement. I want you all to be here when I return to hear the agreement explained. I will have duplicate copies of the agreement, and after I explain it one copy is left here with you, the other I forward to Washington. I want you all to remain here because our many councils and long discussions would amount to nothing unless you remain and sign the agreement when it is ready for signature.

WAM WAH WE YEZ CUNIG. I want to say a little more to you in regard to the payment. We would like to have the money paid to us in currehcy or silver, for it is very hard for us to get a check cashed here.

Mr. McLAUGHLIN. The agreement will provide that it be paid in cash.

WAM WAH WE YEZ CUNIG. Another thing I want to say to you is when anybody starts to deliver anything to its destination if he loses it on the road he must go back and recover it. We don't want to be losers by anything that would be lost.

Mr. McLAUGHLIN. You would not be losers by any loss of money by the disbursing agent. He would be responsible for all the money placed in his hands for you until it was paid and your receipts for same obtained.

WAM WAH WE YEZ CUNIG. Joseph C. Roy will now read to you in our language the paper we have prepared, which I referred to a while ago.

JOSEPH C. ROY (reading; Peter Graves interpreting). First. We accept your offer of \$1,000,000. We will pay the Indians located on the ceded tract for the improvements they abandoned and for removing of their dead.

Second. In ceding the western portion of the reservation, which embraces about 256,152 acres, we wish the balance of the diminished reservation to be held in common by the Red Lake Chippewa Indians.

Third. The pine on our reservation not to be cut without our consent, except as may be required for our own use, and that we may cut all dead and down timber, other than pine, for our use and benefit.

Fourth. We not to be forced to take allotments until such time as we deem proper and consent to same. And we want it provided that each man, woman, and child shall be entitled to 160 acres.

Fifth. No railroad to be built inside of our diminished reservation, or permission given by the Indian Department for such without obtaining our consent.

Sixth. The United States Government, or any other party, shall not construct dam or cause one to be built on our reservation without first obtaining our consent.

Seventh. Any person who is not a member of our band to be removed from our reservation when so recommended by a majority of our people.

Eighth. Any person who is not on the census rolls of our agency shall not be admitted on our census rolls without first obtaining the consent of a majority of our people.

Ninth. That all the claims which we have against the Government shall be referred to the Court of Claims for adjudication, with the right of appeal to the Supreme Court of the United States.

Tenth. That there shall be no seine or pound nets set to catch fish in the waters of Red Lake.

Eleventh. After all pine timber on the ceded lands of our reservation under the act of 1889 has been cut, making the waterways for the removal of the timber no longer necessary, the waterways for commercial purposes within our reservation to be closed.

Twelfth. In making the agreement now under consideration the name of the Indians of this reservation heretofore known as Red Lake and Pembina bands of Chippewa to be changed so as to be hereafter known as the Red Lake Chippewa as all Pembinas of this reservation have become Red Lake Indians by intermarriage or long residence.

Thirteenth. It must also be provided in our new agreement that the present law be so changed as to give the Red Lake Indians all moneys collected from fines imposed upon whites for trespassing upon our reservation.

Mr. McLAUGHLIN. The privilege of cutting dead and down timber can only be legally done by obtaining authority of the Department.

The present law prohibits persons not belonging to an Indian reservation from remaining thereon or coming upon it without permission from proper authority, and all persons violating such law can be summarily removed.

It is now the policy of the Department not to admit anyone to the rolls of an Indian agency without the consent of a majority of the Indians interested has been first obtained.

The laws of the respective States govern in regard to fishery laws as they do in game laws, and the right to free use of all navigable waters to all citizens of the United States is provided by our Federal laws.

Federal and State laws also govern in regard to construction of dams such as you refer to, and any damage done to the property of individuals has to be paid for by the parties who are benefited by the construction of such dams. This would apply to your reservation lands, should any of your lands be damaged so as to make them less valuable.

Our present laws give the right of appeal to the Supreme Court of the United States with any case originating in the lower court and regularly carried up to the Supreme Court. The privilege of having a case adjudicated by the Court of Claims is usually authorized by act of Congress. No authority is vested in me in these questions, and, therefore, can not be considered by me. But your statements in regard to these matters will appear in the minutes of our councils, which will be forwarded with our agreement, and will, if agreement is ratified, appear printed in the public document.

Regarding the name Red Lake and Pembina bands of Chippewa Indians, as you people of Red Lake Reservation have heretofore been known by, I regard it unnecessary to continue that name hereafter, as those of you who were formerly of the Pembina band have now almost, if not entirely, lost your identity as Pembinas, having been merged into the Red Lake band by intermarriage or long residence. Our agreement will provide that only those Indians belonging on the Red Lake Reservation will share in its benefits, and that you possess your diminished reservation independent of any other of the Chippewa bands.

We will now adjourn so that I may prepare the agreement.

Council adjourned at 4 p. m., Monday, March 10, 1902.

Council reconvened Monday, March 10, 7.30 p. m.

Mr. McLAUGHLIN. I will say, my friends, that I have the agreement prepared and I will now read it to you if you are ready to hear it.

GAY BAY GAH BOW OINCE. The reservation that will be left after we cede the western portion, we want it to be an Indian reservation for all time to come, and that we shall never be required to take allotments within the boundary thereof. That is the wish of the Indians here. That is the most that they hate. That is what they are afraid of.

Mr. McLAUGHLIN. My friends, that question has been discussed a great deal since we commenced our councils. I have told you that there would be nothing in the agreement that we are entering into that would compel you to take allotments. That is a matter in the future and entirely with yourselves. But as this is probably the last agreement you will ever have in regard to any of these lands, at least for most of you old people, I deem it very important that you have a provision in the agreement that will provide for your taking allotments in case any of your people should want to; but there is nothing obligatory in the matter, and the way the law stands now, what is called the general allotment act, each person is only entitled to 80 acres of agricultural land. Furthermore, pine land or other timber land is not classed as agricultural land for allotment purposes. I want to provide for you in the future, so that any time you may take allotments you will have the privilege of taking pine lands, and that when you do so you will be entitled to 160 acres each—every man, woman, and child—regardless of the classification, whether agricultural or pine land.

My friends, the way I have the agreement prepared, which I will read to you, your interests are fully protected. I will take pains to make clear every paragraph in the agreement, and I will not tell you anything that is misleading. I will tell you exactly the meaning of each sentence and each word. Now, these two copies of the agree(ment) are written at the same time. The typewriter made the same impressions on each at the same time, therefore the one is an exact copy of the other. Now, I will have one of your young men hold that copy, which is the one that will be left here at the agency. This in my hand is the original, which I will read, and after it is signed will forward to the Department. This is the copy that the signatures will be attached to.

(Mr. McLaughlin reads the agreement.)

You have now heard the agreement read, and the three interpreters say that it is exactly as it is written here.

I will now sign the agreement on the part of the United States, and you must all sign it after me, so as to complete it.

LEEN JE OWON ABE. I want to speak to you. God is listening to what we have been saying. God is a witness to this agreement. We want this agreement so that the mice can not break into it, as they have to the other agreements. Our diminished reservation must remain intact for all time.

Inspector James McLaughlin then signs the agreement, followed by Chief Kay bay no din and others until 108 of the Indians present had signed, and council adjourned at 11 p. m. Monday, March 10, 1902.

I hereby certify that the foregoing is a true and correct transcript of the proceedings of councils held by James McLaughlin, United States Indian inspector, with the Indians of the Red Lake Indian Reservation, Minn., from March 4 to 10, inclusive, 1902.

FRED. DENNIS, *Stenographer.*

RED LAKE AGENCY, MINN., *March 12, 1902.*

This agreement, made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, in the State of Minnesota, witnesseth:

ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded, being more particularly described as embracing all that part of said Red Lake Indian Reservation lying west of the range line between ranges thirty-eight (38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation

out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars or so much thereof as may be necessary, to be paid equitably to those thus removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

ARTICLE II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

ARTICLE III. It is understood that the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars, shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation, within ninety (90) days after the ratification of this agreement, and the remainder of said sum of one million (1,000,000) dollars, viz. seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

ARTICLE IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa tribe of Indians, and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

ARTICLE V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

ARTICLE VI. This agreement shall take effect and be in force when signed by the United States Indian inspector, James McLaughlin, and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

JAMES McLAUGHLIN, [SEAL.]
United States Indian Inspector.

No.	Name.	Mark.	Age.
1	Kay bay no din (chief).....	x (Seal.)	67
2	Mays ko konoy ay (chief).....	x (Seal.)	71
3	Pay sheke zbig (chief).....	x (Seal.)	35
4	Nay ay tow ub (chief).....	x (Seal.)	54
5	Ah num eay ke zbig (chief).....	x (Seal.)	79
6	Ieen je gwon abe (chief).....	x (Seal.)	63
7	Kay bay gah bow (chief).....	x (Seal.)	55
8	Bay baum e ke zbig wai sh kung.....	x (Seal.)	57
9	Wah we yay cumig.....	x (Seal.)	32
10	Me sah bay.....	x (Seal.)	39
11	Ke me wun.....	x (Seal.)	47
12	Day be ke zbig.....	x (Seal.)	12
13	Aln dus so ke zbig.....	x (Seal.)	7
14	Nay nah e gwon abe.....	x (Seal.)	70
15	Nay gah bow.....	x (Seal.)	47
16	Kay bay gah bow aince.....	x (Seal.)	62
17	Joseph Gurneau.....	x (Seal.)	42
18	Way we rhe gwon ayaush.....	x (Seal.)	68
19	Kah ke zhe baush.....	x (Seal.)	75
20	Ah be tae ke zbig waib (John Thunder).....	x (Seal.)	54
21	Ah be tah sun ah quod (Wm. Gurneau).....	x (Seal.)	67
22	Way metig osh e wah cum ig.....	x (Seal.)	30
23	Joseph B. Jourdain.....	x (Seal.)	31
24	Alexander Jourdain.....	x (Seal.)	32
25	Ke ne we gwon ay aush.....	x (Seal.)	31
26	Alexiance Jourdain.....	x (Seal.)	44

No.	Name.	Mark.	Age.
27	Be war bick ogwon (Joe Thunder)	x (Seal)	45
28	Ay wau se ke zhig (Thos. Gurneau)	x (Seal)	42
29	C. A. H. Beaulieu	x (Seal)	58
30	William Beaulieu	x (Seal)	24
31	Pe avauah	x (Seal)	56
32	Frank Gurneau	x (Seal)	55
33	Oke mah wub (Sam Sayers)	x (Seal)	37
34	Joe Omen	x (Seal)	28
35	Amos Bigbird	(Seal)	37
36	Samuel Mills	(Seal)	31
37	Me ke seence (Joe Mason)	x (Seal)	33
38	Louis Jourdain	x (Seal)	37
39	Kah ke gay sun ah quod	x (Seal)	42
40	Louis Gurneau	(Seal)	20
41	Avsh quay gah bow	x (Seal)	65
42	Kah min way way ke zhig	x (Seal)	23
43	Mav dway cumig ish kung	x (Seal)	41
44	Kah ke gay be nais	x (Seal)	46
45	Kah we tah bid (Peter Sumner)	x (Seal)	49
46	Mav maush kow e gah bow	x (Seal)	61
47	Kah ke gay nung	x (Seal)	52
48	Nah tah we ke be nais	x (Seal)	56
49	Way way nub (Charlie Ward)	x (Seal)	32
50	Ke nlew (No. 2)	x (Seal)	34
51	Kav bav o sah dung	x (Seal)	36
52	Te hish ko ke zhig	x (Seal)	25
53	Nah zaun ub e tung	x (Seal)	25
54	She bah yaun ah quod	x (Seal)	20
55	Wm. Sayers	(Seal)	37
56	Ke che be nav shree (Dick Big Bird)	x (Seal)	66
57	Pah go nav ke zhig	x (Seal)	61
58	Ah wau e ke zhig	x (Seal)	58
59	Pe che gah bow	x (Seal)	65
60	Mis quah dais aince	x (Seal)	57
61	Paym way way be nais	x (Seal)	50
62	May dway gunzh ee	x (Seal)	38
63	Ne gam e be nais	x (Seal)	55
64	Che ke zhig	x (Seal)	61
65	Shav wum ah cum ig ish kung	x (Seal)	62
66	Wah haus	x (Seal)	60
67	Nah zhe kay be nais	x (Seal)	55
68	Ke nlew aince (No. 1)	x (Seal)	52
69	Ay ne we gwon ahe	x (Seal)	56
70	Kah kang ee	x (Seal)	55
71	Peter Jourdain	x (Seal)	48
72	Joe Beaulieu	(Seal)	25
73	Robert Smith	(Seal)	20
74	Wain je mah dub	x (Seal)	47
75	Kav zhe way wainz	x (Seal)	30
76	Kah ke gay gwon av aus ung	x (Seal)	35
77	Ke be dway o say (George English)	x (Seal)	37
78	Alex Beaulieu	(Seal)	26
79	Chas. Sumner	(Seal)	25
80	Bay baum e hee	x (Seal)	29
81	David Dickinson	(Seal)	19
82	Way zhah ke aush	x (Seal)	25
83	Chas. Chatville	(Seal)	29
84	Bay nais e wub	x (Seal)	55
85	Kaush kah jaun	x (Seal)	44
86	Johnny Srears	(Seal)	27
87	William R. Srears	(Seal)	44
88	George Beaulieu	(Seal)	19
89	Ke we tah gwon ay aush	x (Seal)	28
90	O be zaun o be zhig (No. 1)	x (Seal)	34
91	Shah shah go ze kung	x (Seal)	42
92	Oom be be zhig	x (Seal)	46
93	Shah daun (Henry Deloe)	x (Seal)	55
94	George Bassett	x (Seal)	44
95	Ay ub e tung	x (Seal)	68
96	Ke we tah be nais (Frank English)	x (Seal)	48
97	William Jourdain	x (Seal)	31
98	Iah be dub	x (Seal)	51
99	Frank Jourdain	x (Seal)	57
100	Nah zaun way we dung	x (Seal)	47
101	Ke zhig waish kung	x (Seal)	29
102	Peter Graves	(Seal)	32
103	Jos. C. Roy	(Seal)	40
104	Pah go nav ke zhig (No. 2)	x (Seal)	31
105	Frank Beaulieu	x (Seal)	20
106	Roderick McKenzie	(Seal)	49
107	Simon Spears	(Seal)	20
108	Mo ne do ke sis oonce	x (Seal)	19
109	Louison Lusier	x (Seal)	39
110	Bazille Lawrence	x (Seal)	31
111	Joseph Nadeau	x (Seal)	72

No.	Name.	Mark.	Age.
112	Nah wah quay ke zhig.	x (Seal.)	45
113	Samuel Dickinson.	x (Seal.)	25
114	Nays nah wah je waib.	x (Seal.)	35
115	Ke nlew aince.	x (Seal.)	54
116	Ah ke wain zee.	x (Seal.)	45
117	Alexis Gurneau.	x (Seal.)	25
118	Aln dus so ke nlew.	x (Seal.)	55
119	Baptise Lawrence.	x (Seal.)	25
120	Omah yah we gah bow.	x (Seal.)	49
121	Way jaun, or Wah baun e quay.	x (Seal.)	34
122	Ke ne wub.	x (Seal.)	70
123	Benjamin Hobson.	(Seal.)	24
124	Jacob Loud.	(Seal.)	21
125	Albert Redbird.	(Seal.)	19
126	Be dway way ke zhig.	x (Seal.)	44
127	John Defoe.	(Seal.)	23
128	Nay tum e ke zhig.	x (Seal.)	76
129	Ah sum way we dung.	x (Seal.)	44
130	Way ke mah wub e tung.	x (Seal.)	57
131	Me ze way ke nlew (Mark Hart).	x (Seal.)	42
132	Ke che mo ko mon.	x (Seal.)	23
133	Ke way ke nlew.	x (Seal.)	36
134	As sin e we ne nee.	x (Seal.)	45
135	Way me tig oah eence.	x (Seal.)	77
136	Pierriche Johnson.	x (Seal.)	19
137	Alexis Jourdain.	x (Seal.)	46
138	O ke mah wub.	x (Seal.)	19
139	O ke mah un ung.	x (Seal.)	29
140	Kay ne wub.	x (Seal.)	65
141	Zaunz way.	x (Seal.)	19
142	Go je je we ne nee.	x (Seal.)	52
143	Way me tig oah eence.	x (Seal.)	45
144	Kay gway dub e tung.	x (Seal.)	29
145	Me zhuck eence.	x (Seal.)	32
146	Nah gaun ah bun dung (Kah ke gay ke zhigoonce).	x (Seal.)	27
147	Obe zaun e ke zhig.	x (Seal.)	29
148	Nay tah wub e tung.	x (Seal.)	37
149	May zhah ke be nals.	x (Seal.)	18
150	Way oon dah cum ig ish kung.	x (Seal.)	52
151	Te bish ko cumig.	x (Seal.)	33
152	Shah go ze kung.	x (Seal.)	35
153	George Nadeau.	x (Seal.)	18
154	Nah bous ko yoo.	x (Seal.)	18
155	Nay kah me gog.	x (Seal.)	19
156	Ke way din aush.	x (Seal.)	19
157	Ke nlew e ke zhig.	x (Seal.)	35
158	Solomon Blue.	x (Seal.)	46
159	Wah bish ke be nals.	x (Seal.)	39
160	George Wain dub e tung.	x (Seal.)	24
161	Francis Lawrence.	(Seal.)	22
162	Wah tish ke gwon ay aush.	x (Seal.)	47
163	She mah gun.	x (Seal.)	56
164	George Stateler.	x (Seal.)	47
165	Ayah ke bah ke zit.	x (Seal.)	50
166	As sin e we ne nee.	x (Seal.)	50
167	Ke me wun aun ah quod.	x (Seal.)	51
168	Kay ke zhe gwon abe.	x (Seal.)	45
169	Ne gaun e gwon.	x (Seal.)	40
170	May zhuck e be nals.	x (Seal.)	51
171	Kah ke gay cum ig ub.	x (Seal.)	45
172	James Ah ke wain zee.	x (Seal.)	20
173	Kay bay gwon.	x (Seal.)	41
174	Baptiste Vasseur.	x (Seal.)	49
175	John Rainy.	x (Seal.)	29
176	Pos se naus.	x (Seal.)	41
177	Uah gaun e gah bow.	x (Seal.)	75
178	Mah je ke wis.	x (Seal.)	46
179	Way me tigosh eence.	x (Seal.)	43
180	Joseph Clark.	(Seal.)	27
181	John Beaulieu.	x (Seal.)	28
182	Pe je gaunce.	x (Seal.)	43
183	Nay zhe kay we gah bow.	x (Seal.)	51
184	Peter Clark.	(Seal.)	25
185	Way zow e gwon abe.	x (Seal.)	22
186	Ke me wun.	x (Seal.)	27
187	Waus say ke zhig.	x (Seal.)	41
188	Patrice Jourdain.	x (Seal.)	45
189	Henry Martin.	(Seal.)	24
190	Wm. Prentice.	(Seal.)	25
191	Albert Stateler.	(Seal.)	29
192	Bazil Thunder.	x (Seal.)	32
193	Ne bow aice (Geo. Jefferson).	x (Seal.)	35
194	Ke we tah ke nlew.	x (Seal.)	39
195	Quay ke gah bow.	x (Seal.)	4
196	Wah kaince.	x (Seal.)	2

No.	Name.	Mark.	Age.
197	Kah ke gay cum ig.....	x (Seal.)	58
198	Ah je dum o.....	x (Seal.)	53
199	Ah she day ke zbig.....	x (Seal.)	59
200	Ke neese.....	x (Seal.)	59
201	Nay tah wub e tung.....	x (Seal.)	29
202	Omah yah wah je walb.....	x (Seal.)	38
203	Ah ne me ke we gwon.....	x (Seal.)	53
204	Kay gway je way be nung.....	x (Seal.)	21
205	Te bish ko yaush.....	x (Seal.)	28
206	Way oon ding.....	x (Seal.)	32
207	Kay ke zhe aus ung.....	x (Seal.)	25
208	Ah nah quod.....	x (Seal.)	24
209	Ke che ah nish e nah bay.....	x (Seal.)	83
210	Nah zshah ke gwon abe.....	x (Seal.)	34
211	Kay bay aus ung.....	x (Seal.)	36
212	Ay gab sahn dung.....	x (Seal.)	21
213	Wah be gwon ay aush.....	x (Seal.)	20
214	Kah tsh bosh sheed ke niew.....	x (Seal.)	19
215	Mosh ke nay be tung.....	x (Seal.)	18
216	No din e be nals.....	x (Seal.)	52
217	O me meence.....	x (Seal.)	18
218	Ish ko day o tsh baun.....	x (Seal.)	21
219	Mays ko gwon.....	x (Seal.)	51
220	Kah dah wah be day.....	x (Seal.)	18

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minn.; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

JOS. C. ROY,
C. W. MORRISON,
PETER GRAVES,
Interpreters.

RED LAKE AGENCY, MINN., March 12, 1902.

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, United States Indian inspector, and the 220 Indians of the Red Lake Reservation, Minn., to the foregoing agreement.

DANIEL SULLIVAN,
Overseer in Charge of Subagency.
FRANK H. KRATKA,
Mayor of Thief River Falls, Minn.
B. L. FAIRBANKS,
White Earth Agency, Minn.

RED LAKE AGENCY, MINN., March 12, 1902.

I certify that the total number of male adult Indians over 18 years of age belonging on the Red Lake Reservation, Minn., is 334, of whom 220 have signed the foregoing agreement.

G. L. SCOTT,
Major, Tenth Cavalry, Acting Indian Agent.

LEECH LAKE AGENCY, MINN., March 17, 1902.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 3, 1902.

SIR: I have the honor to acknowledge the receipt, by reference from you, for report in triplicate and return of papers, of a letter from the Commissioner of Indian Affairs, dated March 28, 1902, accompanied by a transcript of the proceedings in council held by James McLaughlin, United States Indian inspector, with the Indians of the Red Lake Indian Reservation, Minn., from March 4 to 10, 1902, inclusive; the agreement with the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, dated March 10, 1902; the report of James McLaughlin, Indian inspector, dated March 18, 1902, and the draft of a proposed bill, entitled "A bill to ratify and confirm an agreement with the Red Lake and Pembina bands of Indians of the Red Lake Reservation, Minnesota, and making appropriations to carry the same into effect."

Under the agreement referred to the Indians named cede to the United States all of their right, title, and interest in and to all that part of the Red Lake Indian Reservation lying west of the range line between ranges 38 and 39 west, of the fifth principal meridian, the tract ceded approximating in area 256,152 acres.

The Indian inspector reports in part as follows:

"The tract included in the cession, taken as a whole, is excellent agricultural land. There are some marshes within the tract, the most of which, however, afford good grass, and with drainage, which is quite feasible, most of those lands could be brought under cultivation, and all of the land that would not be brought under cultivation by cutting the numerous beaver dams in said marshy tracts would be thus sufficiently drained to become good meadows, which would yield large crops of hay annually, and the native grass on these marsh lands is of excellent quality."

"There is no pine timber on this ceded portion, but there are a good many scattering, small-sized trees, chiefly poplar and oak, throughout the tract, each section of the land containing more or less of this character of timber, and sufficient on almost every quarter section to provide the homesteader with necessary fuel."

"The consideration allowed the Indians for the cession is a fraction over \$3.90 per acre, which I regard as a fair and reasonable price. It is true that some of the choicest portions could be sold at a much higher price, ranging from \$5 to \$15 per acre, and some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but taking the entire cession as a whole, with its numerous marshes and undrained tracts, I regard the consideration, also manner of payment, as fair and just both to the Indians and to the United States."

The Commissioner of Indian Affairs suggests that a section be added to the bill providing for the disposition of the lands ceded. No reservations are provided for in the agreement.

The general character of the lands now under consideration is similar to the lands in the ceded portion of the Rosebud Indian Reservation in South Dakota, and, in my judgment, the lands in the ceded portions of the two reservations should be disposed of in the same manner.

Following my report of March 3, 1901, as to the disposition of the ceded lands in the Rosebud Reservation, I have to state that, in view of the provisions of the "free homestead" act of May 17, 1900 (31 Stat. L., 179), and of the act of March 3, 1901 (31 Stat. L., 1093), providing for the disposal of lands recently opened to settlement and entry in Oklahoma, and considering the price to be paid by the Government to the Indians for the lands acquired, I respectfully recommend that there be added to said bill the following section:

"Sec. 3. That the lands ceded to the United States under said agreement shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no one person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and described in section 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *And provided further*, That the price of said lands shall be \$3.90 per acre, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein."

Very respectfully,

BINGER HERMANN,
Commissioner.

THE SECRETARY OF THE INTERIOR.

A BILL To ratify and confirm an agreement with the Red Lake and Pembina bands of Indians of the Red Lake Reservation, Minnesota, and making appropriation to carry the same into effect.

Whereas James McLaughlin, United States Indian inspector, did, on the 10th day of March, anno Domini 1902, make and conclude an agreement with the adult male Indians of the Red Lake Reservation, in the State of Minnesota, which said agreement is in words and figures as follows:

"This agreement, made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa

Indians, belonging on the Red Lake Reservation, in the State of Minnesota, witnesseseth:

"ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded being more particularly described as embracing all that part of the said Red Lake Indian Reservation lying west of the range line between ranges thirty-eight (38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars, or so much thereof as may be necessary, to be paid equitably to those thus removing, in proportion to the value of their respective improvements, which payment, by said Red Lake Indians, shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

"ARTICLE II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay to said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

"ARTICLE III. It is understood that of the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety (90) days after the ratification of this agreement, and the remainder of the said sum of one million dollars, viz, seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

"ARTICLE IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa tribe of Indians, and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

"ARTICLE V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

"ARTICLE VI. This agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

"In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

"JAMES McLAUGHLIN [SEAL],
"United States Indian Inspector."

No.	Name.	Mark.	Age.
1	Kay bay no din (chief).....	x (Seal.)	67
2	Mays ko ko noy ay (chief).....	x (Seal.)	70
3	Pay she ke shig (chief).....	x (Seal.)	35
4	Nay ay tow ub (chief).....	x (Seal.)	54
5	Ak num e ay ke shig (chief).....	x (Seal.)	76
6	I een je gwon she (chief).....	x (Seal.)	63
7	Kay bay gah bow (chief).....	x (Seal.)	55

And 213 other male adult Indians.

"We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minnesota; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

"JOS. C. ROY,
"C. W. MORRISON,
"PETER GRAVES,
"Interpreters.

"RED LAKE AGENCY, MINNESOTA, March 12th, 1902.

"We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, U. S. Indian inspector, and the two hundred and twenty (220) Indians of the Red Lake Reservation, Minnesota, to the foregoing agreement.

"DANIEL SULLIVAN,
"Overseer in Charge of Subagency.

"FRANK H. KRATKA,
"Mayor of Thief River Falls, Minn.

"B. L. FAIRBANKS,
"White Earth Agency, Minn.

"RED LAKE AGENCY, MINNESOTA, March 12th, 1902.

"I certify that the total number of male adult Indians over eighteen (18) years of age belonging on the Red Lake Reservation, Minnesota, is three hundred and thirty-four (334), of whom two hundred and twenty (220) have signed the foregoing agreement.

G. L. SCOTT,
"Major, Tenth Cavalry, Acting Indian Agent.

"LEECH LAKE AGENCY, MINNESOTA, March 17, 1902."

Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said agreement be, and the same hereby is, accepted, ratified, and confirmed.

SEC. 2. That in accordance with the provisions of article three of said agreement the sum of two hundred and fifty thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 3. That the lands ceded to the United States under said agreement shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry.

Provided, That the rights of honorably discharged Union soldiers and sailors of the late civil war and the Spanish war, as defined and described in section twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *And provided further,* That the price of said lands shall be three dollars and ninety cents per acre, but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section twenty-three hundred and one, Revised Statutes, shall pay for the land entered the price fixed herein.

MR. McLAUGHLIN. I said to the Indians here on page 38:

My friends, when I was leaving Washington, just a few minutes before starting I had a talk with the Commissioner of Indian Affairs in relation to this matter—that is, Commissioner Jones—and he told me to be liberal in the price allowed you for the lands, and he would approve of it; that he was desirous to see you people of the Red Lakes protected in every way possible, and he told me that I might provide that you receive double the amount of land for allotments that you are entitled to under the present act.

This was quite an inducement. Under the Nelson Act, so called, they were only entitled to 80 acres, whilst this agreement as negotiated with them provided for 160 acres. These are the minutes of the council that was held with the Indians in 1903, when I went back to see if they would ratify the provisions of the appropriation act of March 3, 1903. It shows my explanation to the Indians and their positive refusal to accept, on account of the method of opening lands, manner of payment, and the granting of about \$57,000 in land to the State of Minnesota at a minimum price.

The CHAIRMAN. Now, wherein do you consider that their refusal on their part to ratify is so important in this hearing that we are now holding?

Mr. McLAUGHLIN. I do not think it is important at all. The only thing that I would regard as important is that the bill that was submitted to them—the act that was submitted to them for their concurrence—continued and there were a great many changes from the original agreement of 1902. That retained article 4 in toto, which recognized them as the only owners of the Red Lake Reservation.

Mr. KELLY. When we adjourned yesterday there was a question I wanted to ask. When you went out in 1902 to have your negotiations with the Indians was there any understanding at all with the Indians at that time that if they accepted the agreement you brought to them, that the provisions of the act of 1889 would be waived, where the residue of the Red Lake Reservation was to be held for all Chippewa Indians?

Mr. McLAUGHLIN. The minutes show the discussion very clearly. That was told them several times.

Mr. KELLY. You gave them to understand that?

Mr. McLAUGHLIN. Yes.

Mr. KELLY. Don't you think that was the reason they accepted the agreement?

Mr. McLAUGHLIN. Without a doubt that had a great deal to do with it.

Mr. HERNANDEZ. Do I understand that the reason that they accepted the first agreement—I mean the Red Lakes—was because they were to get from under the agreement of 1889?

Mr. McLAUGHLIN. That did not come out in the discussions at all.

The CHAIRMAN. I do not think Mr. McLaughlin has proceeded far enough in his statement for us to begin to interrogate yet. I would like to have him go on and explain why they went up there to make this contract. Why did the Government at that time want to take that band of Indians there and separate them and give them an advantage, you might say, over the other members of the Chippewa Tribe?

Mr. McLAUGHLIN. That, Mr. Chairman, I know nothing of, other than these petitions that came in here—the petition of the Commercial Club of Thief River Falls, the delegation from the State, two Senators and some Congressmen, and my instructions from the department—and I had just arrived; if I recollect—I had just arrived from California, and they sent for me and told me what they would do—would send me out to Minnesota. I had never visited the Chippewas before.

The CHAIRMAN. Have you anything further on your mind that you want to tell us with regard to what took place?

Mr. McLAUGHLIN. I simply came up here to submit these agreements, and in case the committee desired to ask me any questions, I would be very glad to answer them.

The CHAIRMAN. Then, Mr. Hernandez, I will ask your pardon for having broken in at the time I did, but I supposed he had a long statement with regard to this which he wanted to make before we started to question him. You have stated you were requested to offer them an inducement of double the amount that they expected to receive. In other words, they were figuring on getting 80 acres and you gave them 160. Now, what I am interested in is, why that sort of an inducement was offered. Why was it so necessary at that time to make this particularly seemingly advantageous arrangement with the Red Lakes, as against all the others of the Minnesota Chippewas?

Mr. McLAUGHLIN. As I understood that and still understand that, it was because the Red Lakes had a large amount of surplus land, a large reservation, and the same was allowed the White Lake Reservation Indians later by the act of 1905. They had taken 80 acres of land, but 80 acres additional was given to them.

The CHAIRMAN. Now, when you went up there, you did not see anybody but the Red Lake Indians?

Mr. McLAUGHLIN. I did not see any of the other Indians.

The CHAIRMAN. So you did not know at that time whether or not other portions of the Chippewa Band were favorable to that sort of a special arrangement?

Mr. McLAUGHLIN. I did not.

Mr. KELLY. But there was no request from any other Chippewa Indians to have this negotiation?

Mr. McLAUGHLIN. No; other than a number of Indians told me they had been receiving letters from Washington and from elsewhere, advising them not to negotiate any agreement.

The CHAIRMAN. But you did go ahead and make the agreement and sign them all up?

Mr. McLAUGHLIN. Yes; under my instructions.

The CHAIRMAN. And it was brought about largely by such inferences and eloquence as you could bring to bear upon them, and the further particular inducement of the additional 80 acres of land?

Mr. McLAUGHLIN. I regarded it for the best interests of those Indians.

Mr. KELLY. Much more than the additional 80 acres, Mr. Chairman. There was also the proposition that the Red Lake Indians would own entirely all the Red Lake Reservation, instead of the Chippewas.

The CHAIRMAN. But when you went up there to make it, you believed yourself it was a particularly advantageous thing for the Red Lake Indians to do?

Mr. McLAUGHLIN. I did.

The CHAIRMAN. Of course, with your great knowledge of Indian affairs at that time, it must have come into your mind, "Is it not possible that this is an arrangement which will not work to the advantage of all the Chippewas?"

Mr. McLAUGHLIN. That did not occur to me at all, on account of my instructions.

The CHAIRMAN. You can see now, from the way the thing has turned out, that that would have been a normal thing to have had under consideration at the time. Of course, I appreciate that you were under instructions to go and do a certain thing.

Mr. McLAUGHLIN. I was very well acquainted with the commissioner in the agreement of 1889, H. M. Rice. He was the first governor of Minnesota, the first United States Senator, an old friend of mine. Mr. Whiting, of Wisconsin; I knew him, and I knew that they had had a long summer's work there in negotiating the agreement, and the Indians complained a great deal about it.

The CHAIRMAN. I would like to see that penciled note that you gave me yesterday in the hearing.

Mr. SINCLAIR. Mr. Chairman, may I ask the major about the Pembinas? The Pembinas are on that Red Lake Reservation also?

Mr. McLAUGHLIN. There are a number of them still there.

Mr. SINCLAIR. Did you negotiate with them in making this treaty?

Mr. McLAUGHLIN. Not in this treaty at all.

Mr. SINCLAIR. Why were they not included?

Mr. McLAUGHLIN. They were not included in my instructions the second time I went out.

Mr. SINCLAIR. About how many Pembinas are there?

Mr. McLAUGHLIN. They are not designated. They are all called Red Lake Chippewas. There are some Pembinas among them. There were about that time 100 or 105 Pembinas on land on the White Earth Reservation which had been purchased by the Government and located there.

The CHAIRMAN. Bishop Marty was up there about that time, advising.

Mr. McLAUGHLIN. Yes, sir.

The CHAIRMAN. What did he mean when he made this statement?

We do not say that the other Indians have a right on this reservation which is yours alone. Now, this reservation being yours, you must do with it as your advantage dictates, and for the advantage of the whole Chippewa Nation.

What did he mean, in your judgment, by saying that was to the advantage of the whole Chippewa Nation?

Mr. McLAUGHLIN. He undoubtedly felt like many others had felt, that that tract of country belonged to the Red Lake Indians alone, but the act of Congress that they were presenting would not bear them out in that; that was in violation of the act of Congress. All the Indians were interested, so far as negotiations were concerned.

The CHAIRMAN. You knew that that statement was a fact when you were making that agreement?

Mr. McLAUGHLIN. I did not see those minutes at all.

The CHAIRMAN. You knew of this agreement, did you not? You knew that this agreement you were making with the Red Lakes was contrary to the law as it existed at that time?

Mr. McLAUGHLIN. Oh, yes; I was aware of that. Another thing I wish to say. A number of the Red Lakes were talking with me at the hotel and around the office. They claim that they did own about 3,000,000 acres at one time in their reservation, and that they ceded all of that except about 800,000 acres which were reserved for them as a diminished reservation. That is what we were negotiating for, and this 2,200,000 acres that they had ceded, thrown into a jackpot, that they had given them a right to participate in the proceeds.

The CHAIRMAN. They thought, having ceded that property over to the whole Chippewa Nation, that it was a reasonable compensation for what they were getting under this agreement?

Mr. McLAUGHLIN. Yes; for what they were getting under this agreement.

The CHAIRMAN. There is a real potent thing in this proposition.

Mr. HERNANDEZ. Yes; but is there any record?

Mr. McLAUGHLIN. No.

Mr. HERNANDEZ. There is nothing that will bear that out, on that contention?

Mr. McLAUGHLIN. No.

The CHAIRMAN. But, Mr. Hernandez, we are searching now not only for the written agreement, but the thing that surrounded it, that brought out the written record. What do you mean; what they were actually doing the thing for? I do not think that we can always in these matters determine them merely by just what the written words say? I think you must consider the surroundings to some extent at least. I always do in making up my mind about a question.

Mr. HERNANDEZ. As I understand it, the first record which was made in official acts with these Indians by the Federal Government, was made in 1854, was it not? That is when they were brought really under Federal control?

Mr. KELLY. That was the treaty; yes.

Mr. HERNANDEZ. That is as far back as we can go. Prior to that, as I understand it, these Indians were apparently occupying that territory there. They were moving from one place to another, as a sort of nomadic tribe.

Mr. McLAUGHLIN. As far back—I reached Minnesota in the spring of 1863, and am well acquainted with the Indians of Minnesota and the Northwest since that time, and at that time the Red Lakers were up in that country. I don't know how long previous to that.

Mr. HERNANDEZ. Right there where you found them in 1902?

Mr. McLAUGHLIN. In 1902.

The CHAIRMAN. You haven't any interest in the particular solution of this question, except as to how it would distribute the benefits to the greatest number of people?

Mr. McLAUGHLIN. I have not.

The CHAIRMAN. You have no particular pride in carrying out this agreement, if it should be found that it ought never to have been made?

Mr. McLAUGHLIN. When I concluded that agreement with the Indians, I submitted my report and the agreement to the Secretary.

The CHAIRMAN. You are here just as a witness, to give us the benefit of the knowledge you have concerning that agreement.

Mr. McLAUGHLIN. Yes.

The CHAIRMAN. Since that time, have you kept watch of that situation up there, so that you would be able to say whether or not you believe that the agreement has been a righteous one, and it has been a good thing for the Red Lake Indians, as well as the other Chippewas that are involved.

Mr. McLAUGHLIN. I always regarded it as an excellent agreement, for the best interests of the Red Lakers, at least.

The CHAIRMAN. But, up to this time, the Red Lake Indians have not received very many benefits from the agreement, have they?

Mr. McLAUGHLIN. I think they have, as provided in the act of Congress.

The CHAIRMAN. There have been no lands allotted.

Mr. McLAUGHLIN. No lands allotted.

The CHAIRMAN. Their lumber has not been sold to a very great extent at this time?

Mr. McLAUGHLIN. As will be seen from the minutes of my council, the Indians were opposed—were very much opposed to allotments at that time, and I advised them to make it possible for them to receive the allotments when the time was up.

Mr. KELLY. Have you gone over, Major, the original Ellsworth bill that is before this committee?

Mr. McLAUGHLIN. I have not. Is that Congressman Ellsworth of Minnesota?

Mr. KELLY. Yes. Would you say it would be a square deal now to allot the Red Lake Indians according to the plan of each one having an equal allotment, and then take the residue for the benefit of the Chippewa Nation?

Mr. McLAUGHLIN. I could not answer that question.

The CHAIRMAN. You do not want to give your opinion in that matter?

Mr. McLAUGHLIN. I am something like Mr. Meritt was yesterday. We don't want to mention names.

The CHAIRMAN. That is all right enough from an officer's standpoint, but in order to get to the real facts of this situation, we should call things by their right names, and we should get to the bottom of it, without regard to whose toes are stepped on, and it seems to me that if any member of this committee has a question he desires to ask you, who drew that agreement, that is pregnant, that is material, and without regard to whom it affects, you ought to answer the question.

Mr. McLAUGHLIN. I will be pleased to, Mr. Chairman.

Mr. KELLY. I would just like to say this, Mr. Chairman. I agree with you heartily in that statement, that we are having the responsibility of acting on a matter here which is in controversy, and can not be settled apparently by that agreement. Therefore, we want to know if we are going to take the responsibility, and I ask the question as to whether now, after all the proceedings that have occurred, it would be a square deal to allot these Red Lake Indians, under the plan of 1889, each one getting an equal chance, and then the residue to go to the benefit of the Chippewa nation instead of the Red Lake Indians alone? I do not believe that would require any mention of names.

Mr. McLAUGHLIN. My work in the Indian Service has been very general. I have not been to the Red Lake agency, I think, since that time, about 1904, and I really do not know the conditions at the present time. I know the conditions generally among the Millack Indians, but I have not given the White Earth matters a great deal of study and thought, but I know a great deal of dissatisfaction grew out of that, and there were reports in the department made by Inspector Wright in regard to it, but the conditions under that act had been very unsatisfactory, especially the sale of the timber, and I have had comparatively little to do with it.

Mr. KELLY. Well, have you ever come in contact with any of this insidious propaganda that Mr. Meritt spoke about yesterday, in an effort to discredit the Indian Bureau, for ulterior motives?

Mr. McLAUGHLIN. I do not know what Mr. Meritt referred to yesterday.

The CHAIRMAN. That is the first you had heard of it?

Mr. McLAUGHLIN. Yes; I have heard people talk against the Indians.

Mr. KELLY. You do not consider that their objection made to the work of the Indian Bureau is regarded as a sinister propaganda?

Mr. McLAUGHLIN. Not at all.

The CHAIRMAN. Maj. McLaughlin, as I understand it, after you succeeded in making that agreement, and after your efforts trying to get the Red Lake Indians to agree to the legislation which subsequently was passed, your connection with it ceased.

Mr. McLAUGHLIN. Ceased.

The CHAIRMAN. And since then, you have no knowledge whether or not the arrangement has worked satisfactorily, or whether it has worked at all?

Mr. McLAUGHLIN. I have not.

The CHAIRMAN. Then I do not see where you can give us any further information with regard to the matter which will be helpful. If there is anybody else who desires to ask him any questions, we will be pleased to have them. If not, Major, we are grateful to you for the information you have given us.

Now, Mr. Meritt, is there anyone else you wish heard? Mr. Steenerson, are you here with a desire to enlighten us on this question?

STATEMENT OF HON. HALVOR STEENERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA.

The CHAIRMAN. Mr. Steenerson, will you tell us—we have several conflicting interests here, and I would like to know, if I can, which side of the question you are on.

Mr. STEENERSON. I will try and get at that. The first I knew about this Ellsworth bill was yesterday. Otherwise, I think I would have been here before. The White Earth Reservation is entirely within my district. The Red Lake Reservation was formerly entirely within my district. It was so when the act of 1904 was passed, and when Mr. McLaughlin negotiated the agreement by the sale of those 11 towns. At the present time, the county of Clearwater in my district embraces a portion of the Red Lake Reservation. The balance of the reservation where most of the Indians reside is in Beltrami County, which is in Knutson's district.

Now, as to my interest in this matter, if I were to go by the number of people, the number of voters, the proponents of this bill, as I understand it, acting through their attorney, Mr. Ballinger, because I do not suppose Mr. Ellsworth had very much to do with framing this bill—I understand it is framed by the attorney for this Chippewa association—now, most of those that are in control of that organization live in my district.

The CHAIRMAN. Mr. Steenerson, will you permit me to make a suggestion?

Mr. STEENERSON. Yes.

The CHAIRMAN. Since that bill was drawn, the interested parties have been at work here diligently in the city, and they have prepared a bill, subsequent to the drafting of the Ellsworth bill, which carries many changes; and yesterday the recognized counsel and the Bureau agreed before this committee that they were within 5 per cent of an agreement upon the entire bill; so that probably you have not seen the new measure.

Mr. STEENERSON. No. I will simply say that I was very much shocked at the proposition contained in the Ellsworth bill, because it attacks the legislation for the last 30 or 40 years, and it assumes that it was all wrong, and that they are going to have us appropriate large sums of money to sue the State of Minnesota, and to sue the Red Lake band of Indians, and to have it adjudicated. I have heard of people buying a law suit, but this is the first time I ever heard anybody suggesting that he buy a suit against himself, and that is what this amounts to. And not only that, but it would be a suit involving facts 30, 40, 50, or 60 years old, and almost entirely forgotten and passed out of the memory of human living beings, and it would be the greatest chance for misrepresenting the facts to the Court of Claims, and I was surprised that it was really entertained with seriousness.

Now, I want to say a few words about my connection with this legislation. The original Nelson Act was passed before I came to Congress. It was passed January 14, 1889. Senator Nelson was the author of it.

The CHAIRMAN. He was in Congress at that time?

Mr. STEENERSON. He was a Representative in Congress. He worked nearly his whole term before he got that bill through. You will recall that that bill provides for the cession of all Indian reservations in Minnesota, except the Red Lake Reservation and a part of the White Earth that was already allotted, and it provided for the removal of all these 10 or 15 bands, scattered on the different reservations, to White Earth. Now, this is relevant, because I am about to discuss the act of October 22, 1904, of which I was the author, and which is based upon the McLaughlin agreement.

The Nelson Act embraces a cession of a part of the then Red Lake Reservation. Now, here is the Seventeenth Annual Report of the Bureau of Ethnology of the Smithsonian Institution, that gives a bird's-eye view of the original Indian titles in Minnesota. You will observe this great, big, blue—light blue—tract here, embracing probably 5,000,000 acres. That is the land of the Chippewas of Mississippi. That was ceded, I think, in 1855. Now, the Red Lake and Pembina Bands, or the Red Lake Band, then occupied what is here dark green and yellow, as you will see. The cessions were numbers 446 and 445. Now, the piece here in dark green along the Red Lake River does not represent all the holdings of the Chippewas. The Red Lake Band, then the Red Lake and Pembina Bands, as they were called, held that land there in North Dakota as far as Devils Lake, and that was ceded in 1863, at the Grand Crossing, where the United States was represented by Mr. Morrill and two other commissioners. The treaty was made right near where I live, at the crossing of the Red River. Nobody was a party

to that treaty except the United States and the band of Red Lake Indians. Their title and right to cede the land were not questioned. Then that left them this large tract here in yellow. That was ceded under the Nelson Act, and part of it—that is, you will see here all the colored part—was ceded under the Nelson Act and part of it—that is, here you will see all the colored part—was ceded under the Nelson Act and the particularly white left around the lake here is what is called the diminished reservation, and this includes the so-called 11 towns ceded by act of 1904. So this tract that was ceded, according to the report, contained 3,260,000 acres

That was contributed by the Red Lake Band of Indians to this common pot. That was the Nelson Act, that all these lands should be ceded, and the money derived from it should be the common fund. The timber was to be sold and the land was to be sold, and that amounts to some \$6,000,000 now, after paying all expenses and annual outlay for support. Mind you, the Red Lake and Pembina Bands numbered, when the Nelson Act was passed, 1,386, or, say, 1,400 souls, men, women, and children. They contributed 3,200,000 acres to the common fund, as against less than a million acres of the other tribe. The whole amounted to 8,400 Indians. That is all there was. They had a census made at that time, and they included everybody that was entitled to enrollment, and that amounted to 8,400. So you see that one-sixth of the Indians constituting the Red Lakers contributed three-quarters of all the land to the common fund.

Mr. KELLY. Right there, when that cession was made by the Red Lakers, under the Nelson Act of 1889, they were to cede everything with the exception of enough to equal allotments for the Red Lake Tribe?

Mr. STEENERSON. Oh, no. The cession exactly describes the boundaries that they ceded, and the balance was retained for the Red Lake Indians with a view to something in the future—allotting it in severalty.

Mr. KELLY. I understood the report of those commissioners to be that they held 700,000 acres particularly because a great portion of that land was swamp land.

Mr. STEENERSON. That is very true. They say there is more swamp land retained for the Red Lake Indians, because so much of it is swamp. I have a bill pending before the Committee on Food Control, to get permission to build a dam at the outlet of Red Lake and to drain those lands. If we get a proper outlet for those lands, the land which the Rice Commission's report says is worthless, will be most valuable. They are the richest lands in the world, and if this improvement we are contemplating—we have organized a drainage district which will spend over a million dollars, most of it, of course, for improvement in dams outside. Well, no, the principal thing is the regulating works for an outlet for Red Lake. Red Lake is a lake of 400 square miles surface with a drainage basin of 2,000 square miles, and it is the ideal place for holding the water. The banks of the Red River, flowing out of Red Lake, are so low that in ordinary stages of water the river is bank full, but when the water is high or in a wet season, that whole country adjacent to the river is absolutely useless—it is flooded.

The CHAIRMAN. It has been brought to the attention of the committee that under the proposed drainage scheme of the Red Lake, when that improvement was completed, it would lower the lake 5 feet. What do you say about that?

Mr. STEENERSON. Well, the Interior Department had a conference yesterday about it, and we continued the conference until later on. It is too early to say how much that will lower it, or how much it will raise it. They will control the level of the lake to prevent the floods.

The CHAIRMAN. If you lower that lake 8 feet, what would be the surface mileage of the lake after that?

Mr. STEENERSON. Well, it would probably be a little less. The shores are somewhat shallow, but the law will provide that the Interior Department will control the level of the lake. That is a part of the agreement that is going to be made, that the Secretary of the Interior shall determine what shall be the minimum and what shall be the maximum, so that will be taken care of.

Mr. KELLY. Let me get the point I was trying to get at. You do not contend that it was ever as a matter of right that these 700,000 acres were to be held for the benefit of the Red Lake Indians exclusively, do you?

Mr. STEENERSON. Oh, certainly. Now, I want to go into that. Here is what the Mississippi Band—they had four or five million acres. They sold that. That was given to them. Now, in 1863 the Red Lake Band made a treaty with the United States for the sale—for the cession of this vast tract embracing the Minnesota side of the Red River Valley and in North Dakota clear to Devils Lake.

The CHAIRMAN. I did not get the date.

Mr. STEENERSON. 1863. That was ceded by the Red Lake Band, not by the Chippewas of Mississippi; nor Chippewas of Lake Superior, and when this question of ceding the reservation—there was an objection at the time that they were contributing more to the common fund, by contributing 3,200,000 acres, than the others were contributing, and the commissioner said, "It is true you are contributing more. This is your land, but still at the same time all of this region between Lake Superior and the Rocky Mountains, or at least the western part of North Dakota, was taken by conquest from the Sioux and you were allied with the Chippewas of Mississippi and the Chippewas of the Lake Superior Band, and therefore it is due to their cooperation that you got this land, and, therefore, it is not so unjust as you seem to think to contribute part of it to the common fund." Well, they finally secured the agreement giving these 3,200,000 acres, but I call your attention to the fact that in the treaty the Indians—the tribe that occupied the land—were recognized as the owners. You will see here a title. I have got the treaty numbered in this Seventeenth Annual Report of the Smithsonian Institution, Bureau of Ethnology, page 322, who were the grantors—the possessors. Of course, the United States owns the title to all of it, but they have the right of possession. The Chippewas of Lake Superior, cession of October 30, 1854-55-56—that is the big blue one—Chippewas of the Mississippi—they did not ask the Red Lake Band anything about it. The United States dealt with the Chippewas of Mississippi. Now, in 445—that is the cession of the Red River Valley north of the Wild Rice River, extending into North Dakota—

Chippewas of Red Lake and the Pembina Band cession of October 1863—they were recognized as the owners. In treaty No. 446 this treaty under the Nelson Act, a separate agreement was made and they signed it, although the act provided that there should be a majority of all the Indians agree to it. They were a recognized separate tribe or band of Indians up here.

Now, this was the situation when the act of 1904 came up. Since you have had Maj. McLaughlin, you are probably familiar with the contract he made with them.

The CHAIRMAN. We would like to hear you on it, though, just the same.

Mr. STEENERSON. The act of 1904 begins by reciting the McLaughlin agreement. It was in 1902 Maj. McLaughlin made this agreement, and you will notice it provides that the Red Lake Indians should get \$1,000,000 for the 11 towns of approximately 265,000 acres. We sought to get that appropriation in Congress. I became a member of Congress after that bargain was made, but there was no legislation on the statutes. With the Minnesota delegation, I went to Speaker Cannon to get this appropriation of \$1,000,000 assuring him that the money would be refunded by the homesteaders, the land to be subject to homestead at \$4 an acre. First a man had to pay \$4 and then he had to comply with the homestead law and was only entitled to 160 acres. The Speaker refused to recognize me on that proposition. I had a bill pending and he refused to recognize me because of the condition of the Treasury, and, therefore, I was unable to get the bill at that session. I then framed the so-called Steenerson Act, which provided that instead of paying \$1,000,000 flat, we would sell the land first, subject to the homestead law, at auction. My view of this land—part of it was right across the river from the city of Thief River Falls of 5,000 people, on the Great Northern Railroad, and on the Soo Railroad.

An auction sale was held. Each quarter was sold to the highest bidder, and the bidder had to pay the price in installments and had to fulfill the homestead law. That was the provision of the law. Some of it sold as high as \$35 an acre. It was sold very advantageously. After the first sale, the bill provided that it should be subject to another homestead at a minimum of \$4 an acre, but no one could keep a homestead unless he paid the price that it had been bought at this auction, provided the bidder did not comply, and so on. Eventually all of this land went to homesteaders at \$4 an acre—that is, the unsold part. The department—Mr. Meritt will bear me out that instead of getting \$1,000,000 the Indians got \$265,000 more than a million, and it is the first time in the history of legislation about the Indians that we have given them more than they agreed to take, and the Red Lake Indians will bear me out in this. They have touched my heart, not in the usual Indian fashion in which they always claim they are cheated, but they have said they had a square deal under that act and “we are satisfied that the white people have treated us right for once.”

Mr. COLE. What became of that \$1,260,000?

Mr. STEENERSON. It was paid into the Treasury and then paid out to the Red Lake Indians.

Mr. COLE. Separately?

Mr. STEENERSON. It was not paid to every Indian, no; because they were recognized as the owners of this land. That went to the Red Lake Band. You will see from this map that here are cessions from the various bands, from the various 15 or 20 bands of Indians that occupied the land. They sold the land. Their title was a title of occupancy, and the Nelson act itself says that the commission shall procure a cession of the lands from the different tribes or bands of Indians occupying the same. Now, here is the whole Red River Valley, it was ceded by the Red Lake Band in 1863. That is——

The CHAIRMAN. Fifty-six years ago the 6th day of December last, because that is the day I was born?

Mr. STEENERSON. Yes; 56 years ago. Since that time nobody on the face of the earth has questioned that the United States had the right to get the possessive right of the Indians that occupied it. They occupied it and they fought for it, and I have seen the place where they had fortifications and their trenches, where they fought as bravely as the men in France for that Red Lake Reservation, and they won it from the Sioux, and their allies were the other Chippewas, and the other tribes got this other land over here which was sold in 1854 and 1855. No Red Lakers shared the proceeds of these lands.

I went and had a council after Maj. McLoughlin had procured this agreement, which was a fair agreement, and as the major always does, he explains it thoroughly, and I had great difficulty in getting them to agree to take the chance about getting the price of the land sold at auction, as I proposed, and the million dollars. They wanted the million dollars flat, but I took my chances on getting it, and I knew if we did not get the million dollars Congress would have to pay it, because that is what the major had agreed to pay them, and of course they never complained of getting more.

I went with those Indians and talked with them and I heard their contention that this was their land, that they had won it—they and their ancestors and won it by conquest, and that they occupied it, and that they had ceded the 3,200,000 acres for the common benefit of the Chippewas of Minnesota; and that in view of the fact that the remainder was so small, and a large part of it was overflow and unfit for cultivation, by reason of being swamp, that they needed the balance, and you will observe it is not such a very large tract. (Pointing to map.) There is only this shore. This is all timber on the south shore. This is all timber. This is half tamarac swamp. Here is the prairie region, and that is practically all overflow. They said they needed this land for themselves, and they wanted to put it into the act of 1904 that this reservation was for the Red Lake Indians, and we put it in there and could not see any reason why. I am telling you now the reason why it was put into that act, because the history from the beginning shows the Chippewas of Red Lake were recognized as the owners of that land. They were occupants. Of course, the fee was in the United States. They did not cede it under the act of 1889.

Now, when they understood that, they were satisfied, and the law has been executed since 1904, and this \$1,265,000 that they received for these 11 towns has been devoted to their interests. They have been paid annuities and what else? Is there anything for schools?

Mr. MERITT. Oh, yes; there are schools there on the Red Lake Reservation.

The CHAIRMAN. Now, Mr. Steenerson, at the time these various agreements were made, was there any protest on the part of other portions of the Chippewa Band in Minnesota?

Mr. STEENERSON. Never, never. I never heard any objection to it whatever. If there was any, the department knows about it. They did not make it to me, and Senator Clapp, who had charge of the bill, who was chairman of the Committee on Indian Affairs—we talked that over and Senator Clapp and I were up—I don't remember whether we were up before or after the act of 1904 was signed, but we were there sometime; but we never heard any complaint—at least I didn't, and when I was with Senator Clapp we held pow-wow with them, and there was no complaint.

Now, it seems to me—

The CHAIRMAN. You understand, in making this argument, that under this act and the jurisdictional bill which accompanies it, the Chippewas of Minnesota expect to collect back from somebody the \$1,265,000 of which you are speaking?

Mr. STEENERSON. I supposed that was in the Ballinger bill that I saw, or the Ellsworth bill, but it is not only that, they are going to attack the disposition of the funds under the Nelson Act. They are going to bring suit against the State of Minnesota. The Interior Department has allowed certain swamp-land claims and other land claims, and the State of Minnesota will be sued. You will be appropriating a large sum of money here to sue the State of Minnesota. I do not see that we should assume that what Minnesota and the Interior Department has done is wrong. I am familiar with that thing. The State of Minnesota claimed a lot of swamp land under an act long anterior to this. The 1862 swamp-land act, and it was prior to the reservation in question. The State auditor and attorney general of the State of Minnesota were here in Washington, and they submitted briefs, and some of us were notified. I do not think the Minnesota delegation in Congress took any particular part, one side or the other. It was a question between the Indians and the State but the Interior Department—the Secretary of the Interior—has issued a patent to thousands of acres of this land, which has gone into the hands of bona fide people, and I would not assume it was wrong to do so. They must have had what they supposed was the law back of them, and for this committee to authorize a suit and pay the expenses of such a suit upon simply the say-so of somebody, after it is years and years old, seems to me is going a good ways for litigation.

The CHAIRMAN. Why do you assume that they are going to do it? You said a moment ago in your remarks that you were going—

Mr. STEENERSON. I withdraw that. I did not mean to say that.

The CHAIRMAN. I think you ought to withdraw that.

Mr. STEENERSON. Certainly, I did not mean any reflection. The chairman knows very well I did not mean that. I have unbounded faith in the good sense, not only of this chairman, but every member of this committee.

Now, I am very much interested in this matter, because I was sort of sponsor for this act of 1904, which put into it terms that the Red Lake Reservation should be the property of the Red Lake Indians.

The CHAIRMAN. The claim is that in that act of 1904 of which you are so proud, that would completely change the law of 1889. If you will pardon me, let us go into what the law of 1889 says.

Mr. STEENERSON. I do not mean to say that I am proud of the verbiage. I am proud of the purpose and intent of it, because it followed the history of the land titles up there. I do not admit that the act of 1914 changes the act of 1889 when properly understood.

The CHAIRMAN. I understand, but the act of 1889 provides this: "The commission shall be appointed, whose duties shall be to negotiate with all the different tribes of Chippewa Indians in the State of Minnesota for the complete cession of all their right and title, except the White Earth and Red Lake Reservations"—the first section of the bill. The third section is that "these commissioners shall thereupon, as soon as practicable, and under the direction of the said commissioners, allot lands," etc. Now, the contention we have had is that the act of 1889 required the cession of all lands, except an allotment sufficient to carry out the terms of the general allotment act.

Mr. STEENERSON. If you will read the proceedings which I have here, at the time of the cession, that Nelson Act was not interpreted to mean that they were simply to have enough for allotments. Now, that expressly provided that they were going to be on the shore of Red Lake and have their fishing rights. They said that they desired to have 10 acres apiece for maple bush. There is maple sugar made there, and that was mentioned in the pow-wow when they signed this, and they were to have the timber. Now, the Red Lake Indians, at least part of them, the Cross Lakers, were called pagans at that time. I presume they are pagans yet, but they are the finest lot of Indians I have known anywhere. I went over there once when there was an inspector of the Interior Department there, over on this point here. There is the finest stand of white pine that has ever grown on God's footstool. The land is high in the center and slopes to the side, and around the fringe is maple and a little hardwood, so in the fall of the year the fringe is yellow and the inside is deep green. If you go in there, you would think you were in a sacred place, and absolutely those 400 or 500 Indians regard that as a temple of God. They worship it, and they were so excited when they heard there was a representative of the Government in there to sell that timber to the lumber companies, as they thought he was, that they sent out word to everybody to meet them. They heard I was there and I met them, and I explained that this representative of the Interior Department was not going to sell their timber. They wanted to preserve that. I said they will probably make arrangements to cut that which is mature and dying anyway, but that the forest will be preserved. That is what they wanted, and that is what it is good for, for a perpetual forest, and Congress did later on create a forest reserve, embracing this point—an Indian forest for their own special benefit and some of their timber.

Now, the interpretation of the act as contended for there seems to me to be very narrow. I have not examined that act with that thing in view, but I recall that it has been the understanding for at least 30 years, since the Nelson Act was passed, that these Red Lake Indians were to have not only the lands that could be allotted in severalty for agricultural purposes, but were to have these forest lands that are not fit for agriculture, for their use, and I think that

would be a rather strange interpretation of that act. It must be interpreted with a view to the conversations which were had when the Indians signed the agreement that that act should take effect. You will remember I contended for that here a year or two ago, when these same gentlemen were making this contention about the power of Congress to use the money derived from the fund and to provide that—the provision that you had under consideration providing for withdrawing from the principal sum a certain amount. You will remember I contended that under the understanding that was had at the time the act was accepted by the Indians it was only in the case of an emergency that they should use the principal. The interest was to be devoted part to the schools and part to their annuities, and the principal should be untouched except in case, as was explained to them, of extraordinary drought or something like that, but the Supreme Court, you will remember, decided the other way, that it was for the judgment of Congress to interpret that act as the necessities might require. They did not require strict adherence to the understanding at the time, but if you decide the other way, and decide in favor of the contention of the interpretation at the time the act was accepted, the Supreme Court would have sustained it. This is a new question to me that you have suggested, that that interpretation conflicts with all the contemporaneous understanding at the time the act was signed by the Red Lakers.

Mr. KELLY. Let me call this to your attention, further, that in exact opposite distinction to your claim that the Red Lakes were being treated with special advantage in the act of 1889, that that act distinctly gives them a different status on this ground only; that is, while the other tribes must ratify this agreement with a two-thirds vote, the Red Lake Indians must be compelled to a cession of their land on a two-thirds vote of all the Chippewas. They were really put at a disadvantage in order to compel them to do the same thing.

Mr. STEENERSON. You will remember that was discussed in the report of the commission, that the Red Lake Indians said that they had been recognized as the occupants of that land from time immemorial, and that it was theirs; they did not want to share the proceeds of the part that was ceded with anybody.

Mr. KELLY. That is right, but the act provides—

Mr. STEENERSON. Well, wait now. The commission says that they considered that, and they seem to have recognized that the Red Lakers had the possessory title to that. Now, here on page 14 of the commission's report of the Rice commission:

The first council was held at Red Lake June 29, where we remained until July 8. We found them intelligent, dignified, and courteous, but for several days indisposed to give a favorable hearing. The other propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared by others.

Now, they pointed that proposition out and the Red Lakers said, "This is not as favorable, because we share the proceeds with the rest of the Chippewas of Minnesota." The propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared by others. The chiefs were opposed to breaking up the tribal relations, fearing that if they were so broken their power and influence would be gone. The young

men, however, were heartily in favor of the allotment plan, knowing if their lands were held in severalty each man's earnings could be used for his own advantage instead of, as heretofore, being necessarily shared with the idle, but they did not like the provision for "providing with their funds," although when it was explained to them that the country from Lake Superior and beyond the Red River at the north was by the united efforts of all the Chippewas taken by conquest from the Sioux, and that if it had not been for these united efforts they could not have taken and held the reservation, they admitted the correctness of the statement, but that some of their neighbors had received more than their due.

Now, that simply shows that they recognized their rights. All of this land between Lake Superior and the Dakotas was taken by conquest from the Sioux. The Chippewas of Mississippi, who are the principal ones that now ask to sue, they got all of this land there, and the Red Lakers did not share in it. They sold this tract here, and they got it so that Congress in 1853 and 1854 established the doctrine that the Chippewas, occupying here, back of the Chippewas of Mississippi, got the proceeds of that. The Chippewas of Red Lake got the Red River Valley proceeds, and the Chippewas of Superior got no part of that; so they are pursuing a consistent policy. They were induced to sign this Nelson Act by the point that they made there—right on that point of the Ninth Council—this is the council at White River. Here is a speech made by the chief of the White Rivers on this very point, about the construction you are speaking of:

An arrangement has been made with the Red Lake Indians, which includes the Pembinas, but we fear that the Pembinas do not care to go up to Red Lake, and wish to know if they will participate in the common fund and not remove to Red Lake, but remain there. They will take their lands here. If they want to participate with us, they have nothing to put in the pool. Where are the funds coming from to make their share of the pool?

That is the Pembinas.

We as a tribe consolidate all our means, no matter where the Indians are located on other reservations, but the agreement with the Red Lake Indians is that no others can go there, and if they have an overplus of land, which they wish to dispose of in the future, they will have the sole benefit of the sale of those lands, which will not go into the pool.

Mr. KELLY. What is that you are reading from?

Mr. STEENERSON. I am reading from the pow-wow of the council of White Earth Reservation, when they signed the Nelson Act, before the Nelson Act took effect, and it is here pointed out that under the agreement, the other Indians could not go and share that remnant of the diminished reservation with them. They did that themselves; just exactly what I thought they did.

Mr. KELLY. Let me understand. Are you contending that the act of 1889 deliberately and specifically gave the residue of the reservation to the Red Lake Indians, or does it treat them on the basis with all other tribes, and compel the cession of their extra lands, and make it go into the Treasury for the benefit of all the Chippewas?

Mr. STEENERSON. Did I take that position? I took the position that the residue was not ceded. That it did not need to be given to them, for it still belongs to them.

Mr. KELLY. And that the act of 1904 is carrying out the plan of 1889?

Mr. STEENERSON. Exactly.

Mr. KELLY. I do not believe that meaning can be placed on the act of 1889, because it specifically makes a distinction against the Red Lake Indians. It provides that their lands must be relinquished.

Mr. STEENERSON. What do you suppose Congress had in mind when they passed the act of 1904?

Mr. KELLY. That is a complete reversal, in my judgment, of the act of 1889.

Mr. STEENERSON. They say here, when the act was being considered, whether it should be accepted or not—said this agreement provides that the Red Lake Indians should have their diminished reservation to themselves; that nobody shall go there and share it. They owned it and never ceded it.

Mr. KELLY. The law does not say so, whatever they said in council.

Mr. STEENERSON. I think that what they said at the time they signed the act really is a part of the act. I do not think there is any irreconcilable conflict.

Mr. KELLY. It is a different point than any that has been given before the committee yet.

Mr. STEENERSON. I certainly have no interest. If I had any interest at all, I would be on the other side, because most of these people live in my district, but still in good faith, having been up there, and as Maj. McLaughlin explained to them when he made the agreement—

The CHAIRMAN. The thing bothering the minds of this committee, particularly that of the chairman, is that it seems to me that the act of 1904 is a complete reversal of the law laid down in the act of 1889. Now, that is what we want somebody to clear up. You take the position that the Red Lake agreement and the subsequent law was carrying out the law of 1889.

Mr. STEENERSON. Its status was not changed. It was subject to the possessory rights of the Red Lakers. That was not surrendered.

The law of 1889 did not dispose of the diminished reservation, but it was left so it should not be shared with the rest of them.

The CHAIRMAN. Now, just make that as clear to us as you can; how you can make one conform with the other.

Mr. KELLY. There was only enough reserved to comply with the general allotment act of 1887, in allotting these Indians on Red Lake. There was no diminished reservation provided for in the act of 1889 at all, and Maj. McLaughlin states he agreed in 1902 that it was a reversal of the act of 1889, if I understood him correctly.

Mr. STEENERSON. That is an error. The diminished reservation is described in the agreement of cession. The title to that never was passed. The allotments referred to was to Red Lake Indians—not to outsiders. I did not hear the Major's statement, but I know it was in the McLaughlin agreement, which was the foundation of the act which passed, and that I went over this whole ground, and I thought the Nelson Act could be construed in harmony with that theory. At least, every Red Lake Indian believed that, and he insisted on his rights, and I have read now from the proceedings of the commission. I have not studied the Nelson Act with a view to

this particular question which Mr. Kelly has propounded, but it seems to me that it does not conflict—it does not exclude every other interpretation, and if the pow-wows and treaties were made—I will read further on the council that was held there at Red Lake.

It is now for the first time suggested that they not only contributed part, but all of their lands to the common fund.

It should be borne in mind that the title to all this vast region was acquired by conquest; it was a title by possession, not a treaty or paper title. It gave the land to the occupiers, the Red Lake Indians, and no one else. None of the White Earth Indians or Chippewas of the Mississippi occupied this land when the agreement accepting the Nelson Act was made. The other Chippewas in Minnesota were then on their respective reservations; there could be no pretense of title by possession in them of any part of the Red Lake Reservation. It was conceded Indian country, the right of occupancy which was vested in the occupiers, the Red Lake Indians, and none others. When, therefore, they ceded their right and title to the 3,260,000 acres described in the cession of 1889, it did not affect the title to what was left in their possession. In 1904 their right to this part was conceded, and the Government negotiated the McLaughlin agreement and the act based thereon confirmed their exclusive right to their present diminished reservation. Congress had a right to do that and the act was valid. The other Chippewas never having occupied any of these Red Lake lands had no right in them and could not claim any. Hence when the eleven towns were ceded in 1904 the proceeds of their sale went exclusively to the Red Lake Indians.

Section 1: The act of 1889 authorized the President to appoint three commissioners whose duty it was to as soon as practicable after their appointment "to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two Reservations as in the judgment of said commissioners is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes and upon the terms hereinafter stated."

In section 3 it is provided, "That as soon as the census has been taken, and the cession and relinquishment has been obtained and approved, and ratified, as specified in section 1 of this act, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under the direction of said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereupon there shall, as soon as practicable, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on the White Earth Reservation, in conformity with the act of February 8, 1887," etc.

The commissioners made separate agreements with each band. The first was with the Red Lake Chippewas, printed on pages 28 and 29 of the report of the commissioners. (Ex. Doc. No. 247, 51st Cong., 1st sess.) In this relinquishment the Red Lake Indians "relinquished and conveyed to the United States all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following described boundaries, to wit." Then follows a description of the diminished reservation which then included the present diminished reservation and also the eleven towns embraced and ceded by the act of 1904. In the letter of the Secretary of the Interior transmitting the report, it is stated:

"The Red Lake Reservation, two-thirds of which at least is ceded to the United States, contains 3,200,000 acres and the number of Indians occupying the same is 1,168. The boundaries of the diminished reservation from which allotments to the Red Lake Chippewas are to be made are given in the report." The commissioners report that this reservation is larger than will eventually be required, but as there are swamps and other untillable lands therein it can not be reduced until after re-survey and allotments shall be made. The Secretary continues: "Whether the surplus lands that may remain after allotments shall have been completed as required by the law can be disposed of without further legislation is a question which will require consideration, but such consideration is not necessary at this time."

It should be noted that the act provides for allotments on the diminished Red Lake Reservation to Red Lake Indians only, and this is a part of the contract. To take any of these lands and allot them to Indians "not belonging to the Red Lake Reservation" is to take their lands away from them without compensation just as much as if they were taken and given to any outside citizen.

It should be borne in mind that the authority of the commissioners was limited so that they could not even negotiate for the relinquishment of the land excepted; that is to say, land which was set aside to be allotted under "this and existing acts." Allotments under "this act" are expressly limited to Red Lake Indians on the Red Lake Reservation and the general allotment act has carefully provided for allotments to Indians belonging to each reservation. The proposition advanced in the Ellsworth bill is to bring in Indians from other reservations and allot them land on the diminished reservation after the Red Lakers have been allotted. This would be clearly taking of the property of the Red Lake Indians and giving it to some one not entitled to it without compensation.

The Indian title of possession to the diminished reservation now in question has never been extinguished except the 11 towns embraced in the act of 1904, and it can not lawfully or equitably be taken away from the Red Lake Indians and given to other Indians or to anyone else. This was clearly in the mind of Secretary Noble when he transmitted the report of the commissioners when he said, referring to the unceded or part of the Red Lake Reservation, "whether the surplus lands that may remain after allotment shall have been completed as required by the law, and be disposed of without further legislation, is a question which will require consideration."

AGREEMENT WITH THE RED LAKE INDIANS.

We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake Reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding, the act of Congress approved January 14, 1889, entitled (Nelson Act), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act and each and all of the provisions thereof and do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following-described boundaries, to wit:

Then follows a description of the diminished reservation, that was never ceded and remains the property of the occupiers who hold it in common. The error of those who contend otherwise lies in assuming that this tract was ceded under act of 1889 when it was not.

The CHAIRMAN. Another thing the chairman can not understand is, in 1902, when Mr. McLaughlin went up there to make that agreement, if that agreement was going to be of such an advantage to the Red Lakers, why was it necessary to pay a premium to get it, which they did do. They offered them, instead of 80 acres, 160, if they would enter into the agreement. Now, I think that has some bearing on the case, too. Who was it who was so anxious about making this agreement? The Red Lakers were not asking for it at the time.

Mr. STEENERSON. The other Indians got 160, under a treaty, long before the Nelson Act. The White Earth Indians had a treaty providing for 160 acres, and the bill had been introduced and passed in the House four or five times before I got here, and finally we passed it in the House and it went through the Senate, giving them the additional 80 acres. So that the 1904 bill, giving 160 acres, was not any more than the rest of the Indians had.

Mr. KELLY. Sure; but Mr. McLaughlin, in answering a question of mine, distinctly stated the real reason why the Red Lake Indians signed the agreement of 1902 was because they were going to get just what you contend has been the interpretation of the act of 1889. If that was the interpretation of the act of 1889, surely there could be no special advantage offered to them in carrying out a law which had been on the statutes, because all those years he says they were given it and knew.

Mr. STEENERSON. I have never seen any record of the McLaughlin council. Was it printed?

The CHAIRMAN. Yes; Mr. Henderson has a copy of that.

Mr. STEENERSON. I do not know what Mr. McLaughlin told them in order to get them to sign that agreement.

The CHAIRMAN. Evidently there was something said, which the agreement and the minutes do not embody, as you have several times suggested, that we have to consider the conversation which took place as well as the written word.

Mr. STEENERSON. Yes; the conversation that has been hinted at simply does not justify any conclusion that under the law and the light of the whole proceedings that these Indians—that each tribe that occupied the land should be the ones to cede it, and they have done that from the beginning, following out the same process. That is the reason the Nelson Act provided that there should be a council with each band occupying, belonging to that particular reservation.

Mr. RHODES. Mr. Chairman, I would like to ask Mr. Steenerson two or three questions.

The CHAIRMAN. Yes.

Mr. RHODES. I understood that Mr. Kelly read from the act of Congress.

Mr. STEENERSON. 1889.

Mr. RHODES. Yes.

Mr. STEENERSON. I suppose he did.

The CHAIRMAN. Yes.

Mr. RHODES. And that you said a certain conversation took place at the time of the approval of that act, by the Indians.

Mr. STEENERSON. Yes.

Mr. RHODES. Now, do I understand you to say that the conversation that took place in connection with the consideration of the Nelson Act was as much a part of the act itself as appears in the statutes?

Mr. STEENERSON. Not as much, but it must be consulted in interpreting it.

Mr. RHODES. That is true; but is it not a fact that the terms of the act are clear and concise, and if they are, then are we not bound by the terms of the act entirely, and won't we be justified in considering any of this dictum, under those circumstances, and is it not a further fact that the only condition under which we would be justified in considering the dictum, as I might say, would be in case the terms of the act were so dubious and so hard to interpret that it would be necessary to look to other sources in order that light might be shed on the contention of Congress.

Mr. STEENERSON. While of course it is a rule of interpretation of statutes that where a thing is absolutely plain, it don't need any interpretation; if this clause he read is so plain that it don't require interpretation, then it don't have to be interpreted, but the whole context of the subject must be taken into consideration—all of its provisions—and when you take them all into consideration, I submit that no such conclusion is justified.

Mr. RHODES. Now, do I understand that there are certain questions of law in contemplation here, as would make necessary some court decision in order to decide the question, or has any court ever passed upon the question at any time that is here involved? Does this trouble grow out of the lack of interpretation of existing law?

Mr. STEENERSON. You mean whether there has been any judicial interpretation?

Mr. RHODES. Yes.

Mr. STEENERSON. Why, not on the precise point here as to what the rights of the other Chippewas as against the Red Lake Indians are, has never been before the courts for judicial interpretation. It has been interpreted by the department and by Congress. Congress has repeatedly acted upon the theory that I have suggested. They did so when they passed the act of 1854 and the act of 1863.

Mr. RHODES. I was only wondering whether there is existing law which, if construed by a court—that is, if judicial determination might be had of the question, if that might not solve the problem and relieve us of the necessity of further legislation. I sometimes fear that these repeated acts of Congress tend to complicate rather than simplify these matters. My attention was called to one other thing in the course of this conversation. I think it was made clear during the first session of this hearing that these lands have not been allotted, and I think I can see the value of the whole thing, but that perhaps some things depend upon the allotment of these lands, and until that has been done—

Mr. STEENERSON. Of course, I am speaking from a practical point of view, not from a strictly legal point of view. The reason why the Red Lake lands have not been allotted by the department is because in the first place there is the last remnant of pine timber in the State of Minnesota. Some quarters of it would probably be worth \$25,000, and there is other land that is practically worth nothing—perhaps for grazing, \$2 an acre or something like that; and then there is swamp land that you would have to spend a good many dollars an acre before you could reclaim it.

Now, the department had before it an object lesson in allotting lands of this kind, because they allotted lands on the White Earth Reservation, and some Indians got land worth \$15,000 or \$20,000 per eighty, because of the pine, and others got agricultural land or other land that was worth \$500 or \$600. There was an injustice and inequality in it, and for that reason the Red Lake Indians have continued since I have known them to object. They said, we don't want the same condition as occurred on White Earth, where there was an injustice done, and even if some of the lucky ones got \$15,000 or \$20,000, they were generally separated from it in 24 hours, so that it is not what we want, and the department has not allotted them lands because it was impossible to allot it and give a square deal to the 1,400 Indians on the Red Lake Reservation, or to the rest of them. The only way to do was to first, as Congress proceeded to do, establish this forest for the Indians, and that land is suitable for a forest, and under forest regulations you can continue to have a forest there for the Indians forever for their use, instead of skinning the land and leaving that land outside where it will wash into the lake in a few years. So that was the policy adopted on the recommendation and report of the Interior Department.

Now, they can not allot the rest of this land here. I talked with them year after year. These river bottoms here are some of them lower than the river itself in the ordinary stage. The project is to deepen and straighten this river down here to high landing, where there is an ample fall clear down to Grand Forks, S. Dak. Here is

the smaller map. I will offer that. These lands can not be drained by individuals. The engineers of the War Department, under an act of Congress, made a preliminary survey and estimated the cost of this dam to control the Red Lake at something like \$850,000, and the opening up—no, I think about half of that for the dam and the rest of it for the deepening of the river. It is manifest that no individual settler can undertake that improvement, and these lands can not be allotted in severalty and used by anybody until this project is carried out, and we are proceeding with it as best we can.

Now, that answers the question why they have not allotted them heretofore, because it was not practical. They are timbered and they should not be allotted, unless you want to commit an injustice, and the rest of them are swamp lands that have got to be first drained, and the only way to drain is before you part with the title.

Mr. KELLY. The act of 1889 provided that before any offers of lands, the allotment should be made. Now, that was the doctrine of 1889. In 1904 the act provided that lands could be sold without these allotments being made.

Mr. STEENERSON. Wouldn't it be competent for Congress to change that?

Mr. KELLY. Why was the reversal made of those policies?

Mr. STEENERSON. I would have to look up the history of that legislation to answer that correctly. I don't carry it all in my mind; but I presume there was a very good reason for it. Possibly it was the fact that it was manifest you could not sell this land in the state of nature, because nobody could use it. You would have to reclaim it first; then it will be valuable. Why, those lands, ever since the time of Adam and Eve, have been absolutely useless. If we put in that 250,000 acres inside of the reservation that will be benefited by that drainage, it will be worth in my opinion, when they are broken off and drained—will be worth from \$25 to \$50 an acre. That would be \$12,500,000. To-day they would not be worth anything. They aren't even used for grazing. It is so that at certain times of the year you can not use it for anything.

Now, you have got to take all of these physical facts into consideration, and no doubt Congress was advised in changing that law, and it was competent for it to change it. If they say we want to sell it one year, they can say we don't want to sell it the other.

The CHAIRMAN. You will concede, I assume, that these affairs of the Minnesota Chippewas ought to be wound up, and that they ought to be as quickly as possible relieved from governmental restrictions?

Mr. STEENERSON. All of those that are competent; yes.

The CHAIRMAN. Well, that is what I want to get at.

Mr. STEENERSON. Of course, there are a great many—

The CHAIRMAN, (interposing). Whether you are favorable to general legislation that would look to that end.

Mr. STEENERSON. Yes; but I am not in favor of legislation that will tie up northern Minnesota for the next 50 or 100 years in litigation, and that is what this first proposition means. We could not do anything. We have just gone through a period of 10 or 12 years at White Earth where they finally, through the energy of the Department of Justice, settled most of the detail, but anybody that has lived in a country with unsettled titles knows it is like a pest, and these

suits would break out and attack lands sold by the State of Minnesota years and years ago.

The CHAIRMAN. Let me carry that a little further: Through the representation, or through the council of the recognized band of Chippewas here and there, a serious charge has been made or very serious charges have been made against the management of Indian affairs by the bureau in the State of Minnesota. Now, of course, this legislation is looking to the discharge of the Indian Bureau from the affairs of the Minnesota Chippewas. Therefore I would like to have your idea—personal idea—as to the management of the affairs of the Minnesota Chippewas through the bureau, and whether your ideas coincide to any extent with those given to us by the gentlemen to whom I have referred.

Mr. STEENERSON. Of course, I have not heard the statements made. As far as the White Earth Reservation is concerned, those people have no land left. It is all patented. Either the Indians own it or they have sold it to private owners. It is called a reservation, but it is not a reservation to my notion. There may be a few acres where there is cut-over land that is not allotted, but they could not allot very many pieces on the White Earth reservation. Those Indians are mostly mingled with the white people. A great many of them move away from White Earth—a great many of them have moved to Minneapolis.

The CHAIRMAN. Pardon me, but that is not getting to the—

Mr. STEENERSON. You were asking about the policy.

The CHAIRMAN. Yes; whether or not you and the Indians you represent in particular, and with your viewpoint as a legislator in general, you are willing to say that the affairs are being handled by the bureau up there now to the reasonable satisfaction of the Indians involved?

Mr. STEENERSON. Now, you are asking me an opinion upon a matter in controversy. The Chippewa council, so called, is made up of the brightest and the ablest among the Indians. They control that and they want to control the Chippewa Indians instead of the Interior Department, and whether you should undertake to transfer the control of the Indians to this Chippewa council or not is a very serious question.

The CHAIRMAN. That is the meat of the matter involved in this legislation.

Mr. STEENERSON. I was advised about this act of 1904, and the legislative history of that, so as to know that the different reservations were from time immemorial recognized to be the property of the occupants. I am not quite prepared to criticize the Indian Bureau. I know very little about their management of White Earth. Those are all of these gentlemen that have come here, as far as I have observed. There may be some other reservations, and they of course had a conflict there, because under the legislation recommended by the advanced Indian, everybody is competent. The Clapp amendment removed all restrictions. As a result, you all know the Indians sold their land. Some of them all right and some of them all wrong, for a song, and some 1,200 or 1,500 law suits were brought to recover the land. That is not the fault of the Indian Bureau. That was the fault of the legislation and the department did the best it could.

The CHAIRMAN. I would like to ask you two or three more questions, rather in a concise way. You are familiar with the reason why this council was elected—the present council of the Chippewas?

Mr. STEENERSON. No; I don't know anything about that.

The CHAIRMAN. Then you could not say whether they were elected by about 15 per cent of the Chippewas involved, or whether they were not?

Mr. STEENERSON. No; I don't suppose that they represented a very large part of the Chippewas. I don't know anything about it. I don't know whether they are incorporated, or what.

The CHAIRMAN. It has been stated by counsel of the Red Lake contingent who are involved here, that no more than 15 per cent—that this council does not represent the desires and wishes of more than 15 per cent of all the Chippewas involved.

Mr. STEENERSON. I could not testify as to that.

The CHAIRMAN. And that he represents 85 per cent of the Chippewas as a whole in this matter.

Mr. STEENERSON. That is a fact that I haven't followed and I don't know anything about this Chippewa council, except I have seen it mentioned in the appropriation bill, and I know that Mr. Ballinger came in to see me a while ago, when they had a \$10,000 appropriation pending, and I says, "Congress has taken away the money that supported some of these incompetents, paid the amount, and turned it over to these leaders," and I said "I am not going to advocate that." I did not pursue it any further. It looked to me as though that was kind of taking it away from those that needed it most.

The CHAIRMAN. The only thing this committee had to follow was in that matter. The council had been recognized by the bureau, and we had no knowledge whether it represented 15 per cent or 50 per cent of the Chippewas. We are trying to get from you some facts on which we can absolutely depend as to whether or not the bureau was justified in recognizing this council, and if so, whether or not the committee is justified in considering that it is the legal representative of these bands, and is justified in entering into some sort of an agreement between them and the bureau.

Mr. STEENERSON. Like every other human being, I am subject to prejudice. I haven't got any opinion as to what per centage of the Indians they represent, founded upon knowledge, and I don't like to give the committee simply the result of a conclusion arrived at from general impressions.

The CHAIRMAN. Then I want to make this observation. If you, who are in the midst of that situation up there, are confused with regard to that matter, how can you or anyone else expect the minds of this committee can be any nearer in unison in this matter, or attuned any better to that general misunderstanding than are you? We are looking to you as a representative from there to give us some guidance in the matter.

Mr. STEENERSON. Well, it is a difficult position for me, because I have not investigated as to this precise question. Now, the White Earth Reservation is in my district. I think that the vast majority of the Indians on the White Earth Reservation are able to take care of themselves, and that so far as that percentage is concerned, they ought to be released from the jurisdiction of the Interior Department.

I think they would be benefited by it, but the Red Lake Indians are not so far advanced. They have always lived in tribal relations, and if you should treat them like you do the advanced White Earths, you would commit an injustice, and I don't know whether the Red Lake band would be competent to hold an election to select—maybe they are if it is properly presented to them. As to the other bands—those are the only two bands I know of. At least half a dozen other reservations of Indians—the Cass Lake. I have heard they are pretty near blanket Indians up at Cass Lake. If I was on the committee, I would require good, substantial evidence before I would decide anything against the Interior Department. I would not go on the presumption that they were wrong and that these others were right. I would have to have evidence. And it seems to me upon these questions that this committee ought to and could possibly have a representative committee go and investigate—a man that is reliable, or three men, or perhaps if you could spare the time of three members of this committee to go and investigate this whole question on the ground, it would be advisable. I would not take the responsibility.

The CHAIRMAN. It is a very large tract of ground to cover.

Mr. STEENERSON. Then you ought to have some one appropriate that would investigate. I ought to know more about the actual condition of the Indians in these two reservations than I do, but I haven't visited them in several years.

Mr. RHODES. Mr. Steenerson, you do not need to feel badly about your inability to offer a proper solution of this trouble, for the reason that Mr. Meritt stated before the committee a few days ago that while they recognized this general council to a certain extent that the department recognizes there is merit in the contention of those who do not agree with the council, and it was pretty hard for me to determine under the precise question that I employed in order to try to determine just how far the Indian Office itself was willing to go in its recognition of this council, and I drew this conclusion, that the Indian Office recognized this general council only to a limited extent; that, on the other hand, it indicates it recognized the wishes of the masses of Indians to a certain extent. So far as any decision on the part of the department at least there is lack of ability to determine just who ought to control, whether it be the council on the one hand or the voice of the Indians at large on the other. At least that is the impression I got.

Mr. STEENERSON. Well, I don't know.

Mr. RHODES. And it looks as if this committee ought to be assisted by somebody in such a way as to arrive at the facts in the case. I would like to know first whether this council reflects the views of a fair percentage of Indians. I should like to know whether they are able and willing to manage the affairs for the best interests of the Indians. I should like to know if there is a better method of meeting the wishes of these Indians than through the council. As far as I have been able to see the department is in doubt just as to what should be done in that regard.

Mr. STEENERSON. Well, of course, the assumption underlies your question that the Indians who have appointed this council are competent for self-government, and if they are, then their representatives of course should be recognized, but that is a very serious question.

There are some that are and some that are not. The question then is would you turn over the management of the affairs of those who are not advanced enough to those that are advanced and as shrewd business men as there are in the country; whether it would not be like turning the lamb over to the wolf.

Mr. RHODES. Has the time come when the affairs of this tribe should be turned over to the tribe itself or should the Government still continue to exercise dominion over them?

Mr. STEENERSON. That is also based upon an erroneous assumption, in my mind. You say turn over to the tribe itself. The work of all this legislation for the past 16 years has been to wipe out the tribal relations and make them American citizens, and still for the purpose of this thing you are going to recognize the tribal Indians. As long as there are tribal relations, it seems to me that the United States is the guardian and must manage the affairs. I never heard of the tribal relations being continued after the purpose for which it exists has ceased. This council seems to represent the tribes.

Mr. RHODES. Do you think the time has come when the Government ought to wind up the affairs of these Indians—discharge them?

Mr. STEENERSON. Some of them, most emphatically.

Mr. RHODES. Isn't the Government doing that now?

Mr. STEENERSON. I don't know; I don't think so, as to the Minnesota Chippewas. Of course they have authority to grant a man a certificate that he is competent to dispose of his property, but there should be, perhaps, some further legislation on relieving these competent Indians from Government jurisdiction, and when they are relieved they should not be at the same time taking charge of the furloughed Indians who are incompetent.

Mr. RHODES. Then your opinion is, as a whole, that they have not reached the point where they should be adjudged competent?

Mr. STEENERSON. I don't think that the Red Lake Indians, with whom I have had more to do than any other tribe—I don't think they are competent. I don't believe they think so themselves. They think that these same White Earth Indians will come up there and get the best of them. That has been the burden of their song every time I have seen them. They say, "Don't give the White Earth Indians a chance any more to beat us, the same as they handled the affairs of the White Earth."

The CHAIRMAN. Mr. Steenerson, Mr. Meritt desires to make a short statement here with regard to the questions Mr. Rhodes has just been asking, thinking there has been some misunderstanding which he would like to clear up.

Mr. MERITT. I did not want to create the impression in the mind of any member of the committee that in recognizing the general council, we converted any administrative jurisdiction on that council whatever. We would oppose absolutely the general council having any administrative functions over the Indians of the Chippewa country, and I think that Mr. Steenerson has expressed very clearly what would happen if that were done.

The CHAIRMAN. Now, Mr. Steenerson, a moment ago you suggested the sending of a commission up there on the ground. Now, I just want to call your attention to the fact that in 1892 the Government sent out the best man in the service at that time, and a con-

cededly able man, to make an agreement, which agreement was made, which was supposed at that time to straighten out the difficulties for the future, and in reality it is the difficulty that is here before us to-day—that very agreement which was so made. Now, what reason would we have to expect that we, if we sent another commission there, that it would be any more efficient in bringing about a more satisfactory agreement than that one?

Mr. STEENERSON. Well, I did not suppose that you were having in mind a commission to make contracts with the Indians. What I had in mind was an inspector, or somebody to go up there and find out the facts that are in dispute here.

The CHAIRMAN. That same thing has occurred to practically every member of this committee, but it seems hopeless because there are so many conflicting interests and it seems to me that we will never be able to get legislation that will work out satisfactorily to all the parties.

Mr. STEENERSON. Well, the question was asked me about the representatives of the Red Lake Indians claiming to represent \$5 and the council representing 15, and I was asked to express my views on that, and I told them I did not know what percentage each one represented, and that the question, if it was necessary to determine it, should be found out by an investigation on the ground.

The CHAIRMAN. When the council comes down here, you mean you recognize it as containing the ablest men among the Indians, and then the Red Lake Band comes here with a representation which probably is as representative of the higher type of men of the band—as high type members of the band as you could get together—and why is not the testimony that we would get from them just as competent as any that we could get from anybody else, even if we could be up there?

Mr. STEENERSON. Then the question before you is a question of credibility, which side is right and which side is wrong?

The CHAIRMAN. That is the only way it seems to me that this committee can operate, and if it does do anything, it must legislate upon the best information it can get.

Mr. STEENERSON. Well, I believe that you could, by sending an inspector up there, you could find out where the truth was as between those two statements.

The CHAIRMAN. Well, perhaps you could. Is there anything further you desire to say on the question?

Mr. STEENERSON. No; I did not prepare for this occasion.

The CHAIRMAN. Do you want to give us a final word in conclusion as to what you think you should do with regard to this legislation now?

Mr. STEENERSON. No; I don't think I am competent to do that. I was only aware of this bill yesterday, and I understand now it is not really the last version of the bill, but I saw at once that it would affect adversely the interests of northern Minnesota. It would tie up the titles, and the bill provides, I think, for adding names to the list of Chippewa Indians. While I have lived there now all of these 40 years, I have never heard of any occasion for bringing in any new Indians on this roll. They took a census under the Nelson Act of everybody, and it seems to me that would open a very wide door, and

then they would have perhaps 400 or 500 claiming they belonged to that and admit them, and then each would get 160 acres of these lands here. That seems to be an unsafe proposition. I would rather leave that to the Interior Department, and they have to determine the applications in addition to the rolls there. I should think that would be a very dangerous proposition. I only came here because I thought this would adversely affect the interests of that whole country, not only the Indians but the advancement of the whole region there and indirectly affect the Indians.

The CHAIRMAN. When you say this, you refer to proposed legislation?

Mr. STEENERSON. Yes; beclouding all of these titles. I would rather have it proceed under existing law.

Mr. RHODES. Before Mr. Steenerson goes, I would like to ask Mr. Meritt one question, if he can answer it. Would you state briefly, Mr. Meritt, just how far the department goes in recognizing the action of this general council in the affairs of the tribe?

Mr. MERITT. We simply recognize the general council to the extent of making recommendations. Our experience has been that the general council are making recommendations that are opposed by a very large percentage of the Chippewa Indians, and are against the best interests of a large percentage of those Indians. We will consider their recommendations at any time, but we will oppose vigorously any legislation that would place administrative functions in that general council.

Mr. RHODES. Then you do not rely upon the general council for your information in dealing with all questions affecting the tribe?

Mr. MERITT. We do not, and under no circumstances would we do it.

Mr. RHODES. Then, what are some of the questions on which you get information from other sources?

Mr. MERITT. We get information from the superintendents of the reservation, also from all Indians of the Chippewa country who are constantly writing the Indian Bureau, and they have this right to do so. We are glad to have them furnish us any information. We also get information by sending inspectors in the Chippewa country, but, Mr. Rhodes, we want to make it perfectly clear that the general council has no administrative functions and we would not permit with our consent that they should have.

The CHAIRMAN. In other words, you simply consult with the council.

Mr. MERITT. We are glad to consult with them and glad to have their views, but their views are not controlling with the Interior Department by any means.

The CHAIRMAN. You would not want to state that you consider their recommendations on the same basis as the President considers the recommendations of the Secretary of State?

Mr. MERITT. I would not want to make any comment as to that statement.

The CHAIRMAN. Who is the next witness that desires to appear?

STATEMENT OF MR. FRANK B. BEAULIEU.

Mr. BEAULIEU. Mr. Chairman, my name is Frank B. Beaulieu I live at White Earth, Minn.

I want to state here that the general council, with which I have been connected a good many years, has been the object of a lot of slurs and reflecting remarks upon the integrity of the people who compose—who are the leaders of this council—and it has gotten to such an extent that nearly everybody who don't know the situation hears from some one that has been displaced. It is what we call the minority comes in here and makes these statements. Now, I know Mr. Steenerson. He lives in my district, and I have worked hard for the man, and while I believe that he has done what I thought was best for the Indians while I have known him, I am amazed at his attitude this morning. I want to say that I take exception to a good many things he has said regarding the personnel of this council.

Now, we are here, and if Mr. Steenerson thinks there is anything wrong he ought to sit up right here at this table until it is over with. We always show our hand. We don't go behind in any way, and we have convinced the Indian Bureau within the last two years that a great number of the administrative services up there in the schools have been a waste of Chippewa funds and unnecessary, and on our recommendations those things have been abolished, and upon our recommendation great changes have taken place in the last three or four years.

Now, I want to say I take exception myself, as one member of that legislative committee, to any remarks or insinuations that have been made here this morning. I think if Mr. Steenerson has any doubt about these things it is his duty to sit here at this table and listen to the discussion of this bill.

Mr. STEENERSON. What bill is it, the one introduced by Ellsworth?

Mr. BEAULIEU. Mr. Knutson's bill. Mr. Knutson introduced the bill. Ellsworth introduced the bill first.

Mr. STEENERSON. H. R. 12103 is the one I referred to.

The CHAIRMAN. The committee will be in order, and if Mr. Beaulieu has made the statement that he desires to make, we won't pursue that matter any further.

Mr. STEENERSON. No; I would like to say the bill I was talking about is this bill that was handed me yesterday.

The CHAIRMAN. Mr. Steenerson, if you are just going to attempt to answer his statement—

Mr. STEENERSON. No; I am simply explaining that I have not read the other bill. He admits that I sit here—I don't—I had better go and read the bill before I criticize it. I understand this is not the bill you are considering.

The CHAIRMAN. In a measure we are considering a determination of the Ellsworth bill, and the results of the efforts of the council which has been in session here with the bureau.

Mr. STEENERSON. I suppose I may be permitted to say that I did not intend to reflect upon the gentlemen.

The CHAIRMAN. As chairman of the committee. I would like to say he does not cast any reflection upon the integrity of the council in any way. In fact, you spoke of them as being the most able men.

Mr. BEAULIEU. He said something about turning the sheep over to the wolves.

The CHAIRMAN. You ought not to take that too seriously. I think that was just a slip of the tongue. Gentlemen, we will conduct the hearing in a regular way, with quietness, or we will adjourn it—one or the other. We will at least ask the spectators to pay us the compliment of letting us proceed in an orderly way.

Mr. KELLY. Mr. Chairman, I would like to ask Mr. Beaulieu, a member of this general council, a question or two.

The CHAIRMAN. Mr. Beaulieu, we would like to have you come over here as a witness.

Mr. KELLY. You are a member of the general council of the Chippewa Tribe?

Mr. BEAULIEU. I am.

Mr. KELLY. How is that council elected?

Mr. BEAULIEU. This so-called general council was incorporated as a voluntary association in 1913, in May, at Cass Lake, Minn. In Minnesota we have—we had at one time 11 different tribes or bands that were all of the Chippewas of Minnesota, but there are 11 bands living at different points. It was difficult in those days to get legislation. We were trying for years to get certain legislation to correct conditions up there. One band would send a delegate down and another band would send a delegate down, and there was all conflicting views when we got to Washington, so we never got anywhere; so we conceived the idea that these bands ought to all get together in one body, similar to Congress, where all the conflicting views could be heard in the meeting and discussed, so that the majority might arrive at a proper conclusion and a proper course to take with legislation, or for anything that might be for the welfare of the Chippewa Indians. This council, as I say, was organized in May, 1913. A call was sent out to each reservation, requesting that they send delegates.

Mr. KELLY. That included the Red Lake Indians?

Mr. BEAULIEU. That included the Red Lake Indians, White Earth, Cass Lake, Portage, and others. I was in school at that time.

Mr. KELLY. And the call was sent out to the reservation?

Mr. BEAULIEU. Yes. They met and they discussed the advisability of forming this council.

Mr. KELLY. How were the representatives elected in the various tribes?

Mr. BEAULIEU. On each reservation a local council was held, at which all of the Indians on that reservation were notified that on a certain date delegates would be selected to send to this general council to be held. So the local reservation—for instance, White Earth was notified that they should send delegates. I do not think at that time there had been any special number of delegates that were selected to be sent from each reservation. Each reservation sent so many, but the organization met with these various delegates and formed the constitution and the by-laws. Then after the constitution and by-laws were formulated and agreed upon by the council, the representation was this, that every band or tribe should have one delegate for every hundred or a fraction thereof of population on their local reservations. For instance, the White Earth reservation, which is the largest reservation in Minnesota, has somewhere in the neighborhood of 6,200 Indians; so they will be entitled to one delegate for

each 100, or 63 delegates to this general council, and the same with Red Lake. Red Lake has something over 1,100 Indians. They would be entitled to 11 delegates to the general council. Leach Lake has 800 or 900. They would be entitled to 9 delegates.

Mr. KELLY. How often were those delegates selected by the local council?

Mr. BEAULIEU. They are elected each year, on the second Tuesday in June.

Mr. KELLY. Is the response on the part of the local tribes general in electing delegates?

Mr. BEAULIEU. Yes, sir; I might say that last year there had been statements, as you have heard to-day, that we fellows—the able men, the intelligent men of the tribe—are running things and are maneuvering things and hold this majority through improper practices. We were here last winter before Congress, and the minority in our council was here also, and things were of course in a very chaotic state, as Mr. Meritt knows; so on account of this conflict between the two delegations, the minority and the majority of that council, we were unable to get anywhere very much. The Indian Office would not recognize any recommendations that we made; so it was agreed upon that we would have one general council, or one local council to select delegates to the next general council held in July, 1919, and particular care should be taken that every Indian on each reservation should attend this council and make his wishes known. This proposition was agreed to between the contending factions, who were here last year. One of our members agreed to it and two of the others agreed to the same proposition, that they would hold the proposition on a certain date and whichever faction won should be recognized. Pursuant to that we held a council on the 17th of June. I might say for the mixed breeds, as we are termed up there, and the progressive faction, the wealthiest, whichever you may call it, we of course took every pains to see that every one of our people who were people that favored the progressive tendencies, were there, and Mr. Dickens, who was superintendent at the agency at White Earth, told us that he would see every full blood and very nearly every full blood would be there.

Now, he said it would be poor politics if you did not do the same. It is a test this time. Whoever wins will be elected. I want to settle this question for once and all time. Anyhow, I think that nearly every old Indian and nearly every full blood—the fellows that represented the minority on the White Earth Reservation—were there. They had camped there for four or five days in advance of our holding the council and were having dances, and of course, as is always done in Indian gatherings of this kind, rations were given out by the Government. The result was that our people in the majority were over 200. I think the votes was something like 427—455 to 217. Consequently we were chosen as delegates to go to this council at Red Lake.

Mr. KELLY. The other tribes had the same experience?

Mr. BEAULIEU. The other tribes had the same experience, and the superintendent was notified to get every Indian there at this local election, so as to insure a proper election of the delegates to the general council, and insure against any crooked practices or anything

of that kind. Now, Mr. Dickens, the superintendent at White Earth, presided at this council held on the White Earth Reservation, and I think that this committee ought to have the complete reports of that meeting. I think that—not because I am stating it, but I think it is pretty near what I say.

Mr. KELLY. After those local elections were held in the various tribes that elected delegates, as you have stated, they came to the general council?

Mr. BEAULIEU. At Cass Lake.

Mr. KELLY. Has that been held?

Mr. BEAULIEU. Yes.

Mr. KELLY. Who was in control of the general council?

Mr. BEAULIEU. Oh, we called them the progressive Indians.

Mr. KELLY. They named the officers and transacted the business?

Mr. BEAULIEU. Yes; however, the fellows that lost out at the local council at White Earth, they went out into a gathering of their own and elected a council, that they said they would call a general council. They came to Cass Lake and tried to get in. They were not recognized, because they had been beaten at their local reservation, and Mr. Dickens, following instructions, told them they could not be recognized, so they went out, and they had a minority on each reservation get together and they elected Mr. Caswell here their president and they incorporated under the laws of the State of Minnesota.

Mr. KELLY. What percentage of all these Indians does this real general council you have spoken about represent?

Mr. BEAULIEU. I do not know. It represents the majority, but I am not prepared to state the percentage. I knew that from the election.

Mr. RHODES. Mr. Kelly, for your information, if you will permit it, I think that the history of these meetings was gone into fully at a hearing some time last fall, was it not, at which you appeared and made a statement, Mr. Beaulieu, or did some former member? Is this the first time you have ever given a statement?

Mr. BEAULIEU. This is the first time I have ever given—

Mr. HERNANDEZ. There has been the same information given to a committee prior to this.

Mr. BEAULIEU. Yes. Mr. Chairman, I think the committee ought to have the report of Mr. Dickens on those elections. We have asked for them, but we have been told that they are confidential. I don't know what they contain. We are willing—

Mr. KELLY. When the chairman returns he will take that matter up.

Mr. HERNANDEZ. They are filed with the bureau, are they not?

Mr. BEAULIEU. Yes.

Mr. HERNANDEZ. The proceedings that you speak of are filed with the Bureau of Indian Affairs, are they not?

Mr. BEAULIEU. Yes; they are here.

Mr. RHODES. Mr. Beaulieu, may I ask you how many of the bands were represented in the council to which you belong?

Mr. BEAULIEU. Well, last year, on account of the trouble on account of the defeat of the older fellows—the so-called full-bloods, the near full-bloods, some of them, would not come to the council.

Mr. RHODES. How many members does your council consist of?

Mr. BEAULIEU. Our council would probably consist, if they were all attending, of possibly 120 delegates. Last year I think there were some 97—nearly 100. We have the proceedings of our council here—a certified copy—and we would furnish it if the committee wants it. It will give the exact figures.

Mr. KELLY. It is a hopeless task, Mr. Beaulieu, to get this minority to realize that government means majority rule?

Mr. BEAULIEU. Yes; it has always been that as long as I have lived on the White Earth Reservation. That has been my experience. They don't realize that, and when our strength at the local council at White Earth last June was manifest to these old fellows, they insisted that we give them half the delegates to the general council, without voting. Of course, we would not consent to it. It was not representative government.

Mr. KELLY. You think that as far as the full-bloods and the old men on the reservation are concerned, they do not realize what representative government means?

Mr. BEAULIEU. I do not believe they do.

Mr. KELLY. I will state, Mr. Chairman, that Mr. Beaulieu asks that the proceedings of the general council at which Mr. Dickens was present, in July, be printed in the record.

The CHAIRMAN. Is the copy at hand?

Mr. KELLY. He stated the copy was available at the Indian Office, but had been considered confidential.

Mr. MERITT. Mr. Chairman, the commissioner considers reports of inspector's—inspecting officials—as confidential information as a usual thing; and we do not give out these reports to inquiries from general sources. However, I am quite sure that if this committee wants those reports they will be available.

The CHAIRMAN. Well, the committee will consider that at an executive session, whether it requires it or not. Who is next?

Mr. MERITT. Mr. Caswell was referred to and he is here.

STATEMENT OF MR. BENJAMIN CASWELL.

The CHAIRMAN. Will you kindly state to the stenographer who you are and whom you represent.

Mr. CASWELL. My name is Benjamin Caswell. I belong to the White Earth Reservation, but reside—my residence is at Cass Lake. I represent the people who we call full-blood Indians, but they compose both full-bloods and mixed bloods. I don't know just where to begin—where the committee would like me to begin—but if you will allow me to make a statement, I think if I get my wits about me—I am new to appear before distinguished bodies like this.

The CHAIRMAN. Just proceed in your own way and be as free as you see fit. If you prefer to sit down—

Mr. CASWELL. All right. Well, I will stand a little while. It seems to me the committee wants to know the bone of contention of these two factions, and it has not been touched on from my own point of view up to this date. Mr. Ballinger read a treaty, and one of the treaties he read was the treaty of 1854, September 30. Prior to that treaty we were one nation. We were known then as a nation. In that treaty we were separated and known as the Chippewas of

Mississippi and the Chippéwas of Lake Superior. The Chippéwas of Lake Superior are to-day known as the Wisconsin Chippéwas, and the Chippéwas of Mississippi are the ones now opposing the Chippéwas of Minnesota. In that treaty it provides that all our rights as the Chippéwas of Mississippi are relinquished on the Wisconsin side, for the interest of the Lake Superiors, and in return the Chippéwas of Lake Superior relinquish all the rights on the Minnesota Chippéwa property. Now, who are those people? That is the main point. In that treaty, article 2, in section 7 referred to, it provides that all Indians of mixed blood, over 21 years old, shall have 80 acres of land, or the head of family—that is for mixed-bloods—and a lot of people availed themselves of that right, and thereafter they became known as the mixed bloods, descended from all other Indians, and we have a document here. Now, these people went to work and they were Lake Superior Chippéwas before they received those lands, and they got it with proper witnesses, and they then identified who they were and where they belonged.

The CHAIRMAN. Whom do you mean by "these people?"

Mr. CASWELL. The mixed bloods, as described in that article 2, section 7; and we have here a House document—I think it is numbered House Executive Document No. 193, Forty-second Congress, second session.

Now, that disposes of that matter who these people are, and in the course of time—they were not then as bright as they are to-day. They sold and disposed of their property, and since their act of taking that advantage they relinquished their rights as members of that particular tribe—that is, the Wisconsin Indians—and by siding in with them they have relinquished all of their rights on the Minnesota side, but since they could not go back on the Wisconsin side, they roamed about different sections of land, employing themselves at various occupations. The majority of them—I think those I am speaking of now—are employed among the traders. When they are trading, they go to the Indians with those people that go to the Minnesota Indians, and they live there among them, and these people who we call the mixed bloods got in on the Minnesota rolls some time later—we don't know just when, but here is the book that tells those people's family names. That can be easily identified, and those are the ones that have got control of our Minnesota affairs to-day.

Mr. KELLY. You mean they have the general council?

Mr. CASWELL. Yes; the gentleman that stood here belongs to one of those people here. His ancestors have relinquished all of their rights. This is one of the reasons we can not consent. Those people have no legal rights to manage our own affairs to our detriment. Here is a book or volume that tells the whole history, how we were turned over once to their way of thinking, how we were committed. It is their instanced—the same people that laws were enacted—that is, gave misleading information so that Congress enacted those laws, representing that every Indian was competent to manage his own affairs. That is abundant proof that they can not manage their own affairs to advantage.

The CHAIRMAN. Then you maintain that Mr. Beaulieu, who has just spoken here, is not a legal member of any of those bands up there?

Mr. CASWELL. Minnesota bands; yes, sir.

The CHAIRMAN. And that he is illegally in that respect a member of the recognized council?

Mr. CASWELL. Yes.

Mr. KELLY. And you further maintain, Mr. Caswell, that such illegal members of these bands have exerted influence enough to control a majority of the votes of all the tribe?

Mr. CASWELL. Not majority. I will explain that now, when we speak of the Chippewa Indians of Minnesota from our point of view we speak from the—as governed by the treaty of 1854, 1855, 1856, 1863, 1864, 1867, and 1889. Speaking under those treaties, we call ourselves the Minnesota Chippewas, but the gentleman who stood there, and some of the fellows that he represents, we do not speak of them as such. They are Chippewas, Indians of Minnesota as residents, not as members of the Chippewas of Minnesota, according to these treaties I have cited.

Mr. KELLY. How did these men get placed on the rolls?

Mr. CASWELL. Yes, sir; be very glad to tell you that. The treaty of 1855 provides that any employee of the Government who resides among the Chippewa Indians who has, will not be permitted to reside among the Chippewa Indians without a family. That is to protect the moral conditions among the Indians, and some of those Indians of those mixed bloods, I think probably his ancestors were employed as employees. Of course, they would have to take their families with them when they were employed, as interpreters or as farmers or as a policeman, and they remained there until this date; and we don't know when they got in on the rolls. We even—I have seen the white man signing the pay roll once. At least, we consider him to be a white man. The Indians protested.

Mr. KELLY. Were these employees of the Government, under the Indian Bureau, residing on the reservation?

Mr. CASWELL. Yes, sir.

Mr. KELLY. So that really the ancestors of these men were Government employees from Indian reservations?

Mr. CASWELL. Well, some of them did take allotments too. All of these things are backed by records. I don't want to make any statement that is not backed by records. I don't want to reflect on their personal character. Of course, those people are not responsible for the conditions that exist. Perhaps they don't know they are of that status, and I gather my information from the old Indians in their talk, and I have verified it by reading the treaties as I have cited.

Mr. RHODES. Mr. Chairman, will the gentleman give the stenographer the title of this book, or those two books that he offers there?

Mr. CASWELL. That is the Graham investigation.

Mr. RHODES. Is that in the record?

The CHAIRMAN. Yes, a reference to it is in the record. Gentlemen, the time for intermission has arrived, and unless there is objection on the part of the committee, we will not convene again until Monday morning at 10.30, and the committee will stand in recess until then.

(Whereupon, at 12.30 p. m., an adjournment was taken until Monday, March 15, 1920, at 10.30 a. m.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 15, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. Gentlemen, a quorum of the subcommittee being present, we will resume the hearings, and before starting with the witnesses I desire to see if we can find out at this time how many more there are who desire to testify with regard to this matter.

Mr. MERITT. Mr. Chairman, there are two Red Lake Indians here who would like to testify, and I think probably three other Indians from the Chippewa country, Mr. Caswell, Mr. Walters, and Mr. Broker from the White Earth Reservation. I do not know whether this old Indian here [indicating Wah-bee-zha-shee from Leech Lake] wants to say anything or not.

The CHAIRMAN. I am very anxious to close the debate on the hearings to-day, and then I desire to put in one day on the bill itself, with all the extraneous matter cut out, and I would like to try to fix now, if we can, the time that these gentlemen desire to discuss this matter, and the witness that we finished with on Friday afternoon will undoubtedly desire to go ahead this morning, if he is here, and if you will just step over here now we will just see how much time you desire in the matter. I am making this statement, not with the view of cutting off anybody who has any information to give us, but it seems to me that as we have other pressing matters following this matter we have given about all the time we can at this time if we take to-day and to-morrow. How much time will you require?

Mr. CASWELL. It depends on what the committee wants to find out.

The CHAIRMAN. It depends on what you want to tell us. I doubt whether a question of the enrollment, or legality of these men who are here will have much weight in the matter, since that is all of such a distant date that it would seem to me that we ought to deal with the matters that will assist us in coming to a conclusion, with a view of closing up the matter.

Mr. MERITT. I agree with you that we ought not to take much time on that matter, because it has been settled by the department in a decision.

The CHAIRMAN. So if you will go ahead, say, for 15 minutes more, and just give us the salient points of your argument.

Mr. RHODES. Does he want the rolls opened up again?

The CHAIRMAN. He has made the charge here that certain recognized men on the council have no right to be on the roll at all.

Mr. RHODES. Then he wants the names stricken off?

The CHAIRMAN. No, he does not ask us to do that. That would be a complication of the matter; but since that matter has been settled by a determination of the department it seems to me that it is beyond us to do anything with it.

Mr. RHODES. In other words, what you suggest, Mr. Witness, seems to be more in the nature of a general complaint, without stating positively what you want to do. Now, if you think there are names on the roll that you think should be stricken off, say so.

The CHAIRMAN. And file a list of such names.

Mr. RHODES. If there are names that you think ought to go on the rolls, say so, but simply to make a general complaint without being definite and certain as to the nature of the complaint, would not do you any good, neither would it help the committee very much. I am saying this to help you.

The CHAIRMAN. And if he desires to, when he completes his remarks, he can put into the record the names of such men as he thinks, according to his judgment, are illegally on the roll.

Mr. MERITT. May I place in the record the decision in this matter?

The CHAIRMAN. Yes; it is so ordered.

Mr. MERITT. The decision referred to is as follows:

DEPARTMENT OF THE INTERIOR.

Washington, January 29, 1916.

Complaint having been made on the part of certain alleged full-blood Indians of the White Earth Reservation that there were names on the rolls of that band not properly there, notices were sent to 86 persons, thus indicated as being improperly enrolled, under date of November 25, 1911, signed by the Commissioner of Indian Affairs and approved by the First Assistant Secretary of the Interior. These notices recited the allegation that the parties were unlawfully upon the list of Minnesota Chippewa Indians, not being originally members of any Minnesota tribe or band by birth, and not having become so by proper or legal adoption. The parties addressed were required to show cause why their names should not be stricken from the rolls, their allotments canceled, and the amounts which they had received in the way of annuities and other payments, returned to the tribe. Such notices further advised them that they had been suspended from all of such lists and from participating in any payments, annuities, or other benefits.

Answers were made to these notices, in some instances in person, and, in others, by attorneys; all denying the charge, and some, if not all, denying the jurisdiction in the department to strike from the rolls any name placed thereon by the commission, acting under the act of January 14, 1889 (25 Stat., 642). After these answers came in a representative of the department was sent to the reservation to make an investigation. He required a formal complaint to be made, over the signature of full-blood members of the tribe. This was subsequently done; such complaint being verified, and containing substantially the charges made in the notice of November 25, 1911, though with considerable elaboration. Copies of the complaint were served upon the 86 persons to whom notices had formerly been sent, who filed answers denying the charges, and again asserting lack of jurisdiction in the Secretary of the Interior. Subsequently, voluminous testimony was taken by the investigator.

It was decided to submit the matter to the Court of Claims and, with the acquiescence of all the parties interested, this was done by department letter of February 28, 1915, reference being made to section 148 of the judiciary act of March 3, 1911 (36 Stat., 1037, 1137), as affording authority for such action. The court was advised that the record was submitted for "findings as to the matters of fact and your opinion as to matters of law, together with your conclusion thereon, for the use and benefit of this department in the premises." The court held, in substance, that it had no jurisdiction to render advisory opinions in such matters. The request was thereupon amended, and the court rendered final decision under date of December 21, 1914, wherein, after discussing at some length the question of jurisdiction, concluded that it had no jurisdiction of said claim or matter, and returned the record to the department.

Elaborate briefs have been filed before the department, discussing the jurisdiction of the Secretary, as well as the merits of the matter. Oral arguments have also been heard. The question of jurisdiction has been presented and insisted upon at various stages of the proceedings, and must be considered and determined, before any consideration need be given the merits.

It is not necessary to cite the various treaties and their provisions to which the Chippewa Indians were parties, entered into from 1785 down to 1867. For the present, at least, it will be only necessary to consider the act of January 14, 1889. That act provided, in section 1, for a commission, to be appointed by the President, to negotiate with the different bands or tribes of Chippewa Indians of Minnesota, for the cession and relinquishment, in writing, of their title and interest in and to all the reservations of said Indians in that State, except the White Earth and Red Lake Reservations, and all of these two reservations not required to make and fill allotments provided for by that and other existing acts.

A roll was to be made by said commission—the provisions therefor reading:

"And for the purpose of ascertaining whether the proper number of Indians yield and give their assent as aforesaid, and for the purpose of making the allotments a payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults, and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact number of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior, and the other with the official head of the band of tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall, be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided."

Section 3 of the said act provided that as soon as the census should be taken and the cession obtained and approved, as specified in section 1, all of said Indians, except those on Red Lake Reservation, should be removed to the White Earth Reservation, and be allotted lands in severalty.

This was to be done under the direction of said commissioners. Section 4 provided for the survey and classification of the lands into pine lands and agricultural lands. It is not necessary now to notice the provisions of the other sections of said act.

The commission provided for was duly appointed and proceeded with the work confided to them. A report of their work is to be found in House Executive Document No. 247, Fifty-First Congress, First Session. Agreements were secured from each tribe or band, which were approved by the President March 4, 1890. Census rolls of the several tribes were compiled, upon which appear the names of all the 86 persons then living, and the names of the ancestors of those not then in being. The report of the commission shows also that the Indians had part in the making of the rolls; and were given full opportunity to object to any name thereon.

The work of removing the Indians to White Earth Reservation and of making allotments to them was proceeded with, but not yet completed when, in the act of June 10, 1896 (29 Stat., 321,326), it was provided that the duties imposed upon the three commissioners should, from and after that time, be performed by the commissioner, to be designated by the Secretary of the Interior. The act of June 27, 1902 (32 Stat., 400), amended sections 4, 5, and 7 of the act of 1889, but did not change section 1 of the said earlier act, except as provided in section 5 of the act of 1902, which reads:

"That the Secretary of the Interior shall proceed as speedily as practicable to complete the allotments to the Indians, which allotments shall be completed before opening the agricultural lands to settlement."

The act of April 28, 1904 (33 Stat., 539), authorized the President to allot to each Chippewa Indian "now legally residing upon the White Earth Reservation," 160 acres of land, with the proviso that where any allotment of less than 160 acres had theretofore been made, the allottee should be allowed to take an additional allotment which, together with the land to be allotted, should not exceed 160 acres.

It is urged in support of the contention that the Secretary has no authority now to disturb the rolls made by said commission, or to eliminate therefrom any name for reasons existing at the time of such enrollment, because the making of said roll was confided to that commission as a special tribunal. It is urged, on the other hand, that the Secretary has jurisdiction, because of his general authority over Indian matters.

Section 441 of the Revised Statutes confides to the Secretary of the Interior the supervision of public business relating to various subjects, among which are "The Indians" and "The public lands, including mines." Section 463 provides that the Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, "have the management of all Indian affairs, and of all matters arising out of the Indian relations." The Secretary has jurisdiction over such matters in all cases where no other provision is made. The power of Congress to confide such supervision to other tribunals can not be questioned.

In reference to duties connected with the control and disposition of public lands, the Supreme Court laid down the rule in *Catholic Bishop of Nesqually v. Gibbon* (158 U. S., 155-167) in the following words:

"It may be laid down as a general rule that, in the absence of more specific provision to the contrary in respect to any particular grant of public land, its administration falls wholly and absolutely within the jurisdiction of the Commissioner of the General Land Office, under the supervision of the Secretary of the Interior. It is not necessary that with each grant there shall go a direction that its administration shall be under the authority of the Land Department. It falls there, unless there is express direction to the contrary."

The same words might well be used to define the authority of the Secretary of the Interior in respect to Indian matters. This is so well settled that it seems hardly necessary to cite authority in support of the proposition. It may be noted, however, that the subject was involved in *West v. Hitchcock* (205 U. S., 80). That case involved a question of membership in the Wichita and affiliated bands of Indians, in connection with making allotments, under the act of Congress approved March 2, 1895 (28 Stat., 876, 895-897), which act did not contain any specific direction as to the making of such rolls. The claimant there asserted membership by virtue of adoption. The court said:

"The right is conferred upon members of the bands, but the ascertainment of membership is left wholly at large. No criteria of adoption are stated. The Secretary must have authority to decide on membership in a denial case, and if he has it in any case he has it in all.

After referring to sections 441 and 463 of the Revised Statutes, the court said:

"The power of Congress is not doubted. The Indians have been treated as wards of the Nation. Some such supervision was necessary and has been exercised. In the absence of special provisions, naturally, it would be exercised by the Indian Department."

All declarations that the Secretary of the Interior has authority are coupled with the saving clause that there be no special provision conferring jurisdiction upon some other tribunal.

The contention that the Secretary has now jurisdiction to eliminate names from the list made by the commissioners appointed under the act of 1889, must be upon the assumption that their appointment did not constitute them a special tribunal for making such rolls. It is significant, in this connection, that the rolls were to be made—not only to determine whether the necessary two-thirds of the Indians had given assent to the agreement, but also "for the purpose of making the allotments and estimates hereinafter mentioned." It would be difficult to find language more appropriate to specifically confer jurisdiction.

It is contended, however, that the approval given by the President in 1890 was confined to the written agreements secured by the commission from the Indians. That is true as to form. In fact, however, the census made and transmitted to the Interior Department by the commission, with its report, was accepted as correct by the President to the extent that he determined thereby that two-thirds of the male adults of all the Chippewa Indians in Minnesota had signed the agreement for the cession of the Red Lake Reservation and as to each other of the several reservations two-thirds of the male adults residing and belonging thereon had agreed to the cession.

It has been laid down as a universal principle that the acts of a tribunal given power of jurisdiction over a subject matter are binding and valid as to that matter, and that the decision made or act done is final, unless an appeal is provided for or other revision is prescribed by law. This is stated in *United States v. Arredondo* (6th Pet., 691, 728, 729):

"It is a universal principle that where power or jurisdiction is delegated to any public officer or tribunal over a subject matter, and its exercise is confided to his or their discretion, the acts so done are binding and valid as to the subject matter, and individual rights will not be disturbed collaterally for anything done in the exercise of that discretion within the authority and power conferred. The only questions which can arise between an individual claiming a right under the acts done and the public, or any person denying its validity, are power in the officer and fraud in the party. All other questions are settled by the decision made or the act done by the tribunal or officer, whether executive (1 Cranch, 170, 171), legislative (4 Wheat., 423; 2 Pet., 412; 4 Ibid., 563), judicial (11 Mass., 227; 11 S. & R., 429, adopted in 2 Pet. 167, 168), or special (20 Johns., 739, 740; 2 Dow P. C., 521, etc.), unless an appeal is provided for, or other revision, by some appellate or supervisory tribunal, is prescribed by law."

There is nothing in the act of 1889, nor in any other act of Congress, providing for approval or supervision by the President or other officer or tribunal, or for appeal from the action, the commissioner acting as a special tribunal under section 1 of the said act of 1889.

It is true, as stated in support of the jurisdiction of the Secretary of the Interior, that the work of the commission was not completed at the date Congress enacted the law of June 10, 1896 (29 Stat., 325), but that fact is not of significance, because that did not attempt to confer jurisdiction or authority upon the Secretary of the Interior. There were portions of the work yet to be completed, such as the allotment of lands and removal of Indians from other reservations to White Earth. Neither had the work been completed at the date of the act of June 27, 1902, which directed the Sec-

retary to complete the allotments to the Indians. This act amended several sections of the act of 1889 in respect of making allotments, etc., but did not make any change in section 1, nor confer upon the Secretary of the Interior any authority in respect of the matters provided for in that section, among which was the making of the census. Nor did the act of April 28, 1904 (33 Stat., 539), purport to make any additional provision respecting the census. Neither the fact of the passage of these laws nor any provision contained in any one of them supports the contention of the protestants here. That it was not intended by these laws to affect in any manner the census which had been taken by the commission is further indicated by the provision in respect of this census that it should be made by the commissioners "while engaged in securing such cession and relinquishment as aforesaid before completing the same." In other words, the census was to be made before the commission should report the result of its work to the President.

The various decisions cited in support of the protest have been examined, but it is not necessary to comment upon them extensively. Considerable stress is laid upon the decision of the Circuit Court of Appeals in *Woodbury v. The United States* (170 Fed., 302), and in *Oakes v. The United States* (172 Fed., 305). These cases involved the right of individuals claiming allotments on the White Earth Reservation, but were brought under the act of February 6, 1901 (31 Stat., 760), specifically conferring jurisdiction upon the circuit courts of the United States over suits involving the right of any person of Indian blood claiming to be entitled to an allotment of land under any law of Congress. These decisions are, therefore, not important in arriving at a conclusion as to the jurisdiction of the Secretary of the Interior in the matter now here. The decision by the department in the case of *Minnie H. Sparks* (36 L. D., 234), is also referred to. In that case the name of Minnie H. Sparks was placed upon the rolls by the Chippewa Commission, and she received annuities from the date of enrollment for a period of 10 years, when her name was dropped. By the decision referred to it was held that the dropping of her name because of non-residence was unauthorized. This case, and the other referred to therein and quoted from (*Sloan family*), held that residence was a requisite to sustain the right to an allotment on the White Earth Reservation, but not to sustain a right to annuities.

In the case of *Nellie Lydick* (29 L. D. 408), it was held that the Secretary of the Interior had authority to add to these rolls made under the act of 1889 any name which should be there. This was asserted without discussion of the question, and I am not inclined to accept this decision as controlling the matter now under consideration.

The law in question was under consideration in *Fairbanks v. United States* (223 U. S. 215). It was there held that children born after 1889 to parents whose names were on the roll prepared by the commission were entitled to allotments of land on the White Earth Reservation. A fuller discussion of the matter, however, is found in the case of *Laroque v. United States* decided November 8, 1915. The question there involved was as to the right to have an allotment made in the name of an Indian who was enrolled in 1889, and who died before making application for allotment. It was contended that the census was to be accepted as finally determining who were to receive allotments. In the course of the discussion, the court said:

"While the act directed that a census be made 'for the purpose,' among others 'of making the allotments' contemplated, we think this means nothing more than that the census should serve as a preliminary guide in ascertaining to whom allotments should be made. There was no direction that it be treated as controlling, or that allotments be made to all whose names appear therein or only to them. The work of allotment could not be undertaken at once. The cession was not to be effective until approved by the President. Many of the Indians were to be removed from the ceded reservations to the White Earth Reservation, and much other work was required to prepare the way. So, it must have been contemplated that many changes would occur in the membership of the several bands through deaths and births before the allotments could be made. In *Fairbanks v. United States* (223 U. S., 215), we held that children born into the bands after the census were entitled to allotments, although not listed in it, and we perceive no reason for giving the census any greater effect in this case than was given to it in that. No doubt it is to be accepted as an authorized listing of the members of the several bands who were living when it was made, but it has no bearing in cases like the present."

It is significant that the court noted the fact that the cessions were to be approved by the President, but did not intimate that anything in the act provided for approval of the census to make it authoritative. This decision is authority for the conclusion that the census made by that commission is to be accepted as affording an authoritative list of the names to be considered as members of the several tribes at the time it was made, and entitled to the benefits provided by said act of 1889. The jurisdiction,

which the Secretary has in the premises is to determine the persons named in said census who have since died, or otherwise since forfeited their rights, and also the names of those who have since been born.

I am of the opinion that the Secretary of the Interior has no authority to eliminate from the rolls any name placed thereon by the commission for any cause arising before such enrollment, and that the order of November 25, 1911, approved November 27, suspending from participation in any payments, annuities, or other benefits, the parties complained of, was beyond the authority of the Commissioner of Indian Affairs and the Secretary of the Interior.

The rules to show cause are hereby discharged, the orders of suspension are hereby rescinded, and the proceedings against the parties named are hereby dismissed. The Commissioner of Indian Affairs will take such steps as may be proper and appropriate, treating said order and rule to show cause as it never issued.

ANDRIEUS A. JONES.

First Assistant Secretary.

The CHAIRMAN. See if you can finish in 15 minutes.

Mr. CASWELL. That is impossible, to do it; it is a big question.

The CHAIRMAN. What the committee wants to know is your objections to the proposed legislation.

Mr. CASWELL. Yes; because it started with these people, and they are not proposing that legislation for the good of the Indians.

The CHAIRMAN. What Indians?

Mr. CASWELL. The Minnesota Chippewas, is the ones I claim here.

The CHAIRMAN. All of the Minnesota Chippewas, or just the Red Lake Indians?

Mr. CASWELL. All of the Minnesota.

The CHAIRMAN. All right; now you may go ahead.

STATEMENT BY BENJAMIN CASWELL—Resumed.

Mr. CASWELL. Of course, it hits the weakest and benefits the strongest ones.

The CHAIRMAN. Tell us right there where it hits the weakest ones.

Mr. CASWELL. The Indians themselves are not able to compete with the white men; take this man [indicating an Indian in the room] and a lot of men that are not able to speak English and know the laws of the States, and some of them have lost their property through lack of knowledge how to protect themselves. For instance, on account of the tax; some have lost their property through tax sales.

The CHAIRMAN. Now, let me ask you, is there any way of which you know that the Red Lakes could be taken out of this and segregated entirely and make legislation for the balance of them?

Mr. CASWELL. I would rather not speak for the Red Lake Chippewas.

The CHAIRMAN. For whom do you speak?

Mr. CASWELL. I speak for the White Earth in particular; that is where I came from, and that is where the people that control the council come from. Of course, I have set off here the things I want to say.

The CHAIRMAN. Well, you can put it in the record.

Mr. CASWELL. I make reference here to George Fairbanks.

The CHAIRMAN. You can discuss George Fairbanks, if you desire.

Mr. CASWELL. George Fairbanks was identified as a mixed-blood of Lake Superior, and had mixed scrip, and his wife was Margaret Fairbanks—his number was 163-C—and all their children go under their status, and I will read here the view of the Indians at the time this treaty was made.

The CHAIRMAN. Which treaty are you speaking of now?

Mr. CASWELL. Eighteen hundred and fifty-four.

Here is the understanding of the Indians. James Blackbird, a chief of the Lake Superior Indians—here is a part of his testimony. He said in this testimony:

Gilbert represented Government in negotiating treaty of 1854. He gathered Indians into big council and told them that the Great Father wanted to buy remaining tribal lands in possession of Lake Superior Indians. He said Indians will reserve part of land for several reservations where Indians would receive allotments and work upon them as a white man would do, and that all who were 21 years of age or more and heads of families would be entitled to 80 acres of land. Also single persons over 21 years of age. Gilbert also stated that when an Indian woman marries a white man, the white man shall be the head of the family, and the issue of that marriage would be a mixed-blood, and the mixed-blood would be given land outside of the reservation, wherever she or he choose to take it. That the half-breeds should be given a complete outfit for housekeeping, etc., and that those born of the marriage from those people who thus severed their tribal relations by taking land outside the reservation, would never be considered to have any tribal relations with the Indians thereafter. We understand that mixed-bloods who thus received allotments outside of the reservations and all their children have nothing to do with the reservations whatever.

That is the view of the Indians in that treaty; that is the understanding, and that is the families that they control. Clement H. Beaulieu and all those Indians received benefits on the Lake Superior side, and relinquished all the rights in the Minnesota side, he has stated—that came in later.

Mr. KELLY. Now, Mr. Caswell, you are making the point that there are certain names illegally on the roll?

Mr. CASWELL. Yes, sir.

Mr. KELLY. Now, is it a fact that there are court decisions and other things in the records that makes that a closed question?

Mr. CASWELL. I do not so understand it. There was a question taken in the Court of Claims—I will read here somewhere—

Mr. MERITT (interposing). The Court of Claims held, in substance, that the question of striking these names from the roll was not a matter for that court, but was a question for the Interior Department to decide, and I have placed in the record the decision of the department on that subject. The department has decided that these names should not be stricken from the rolls.

The CHAIRMAN. Mr. Caswell, of course, has his time to use in his own way, and he can put in whatever he pleases.

Mr. CASWELL. In submitting that question to the courts we understand this to be the case: The Secretary of the Interior transmitted the matter and resubmitted it under date of June 16, in order that this court might make findings and draw conclusions of law for its guidance and action. We know that this matter was submitted to the Court of Claims, but as we understand it, it was not judicially disposed of; that is, it was not a decision of the court as other decisions are made by courts.

Now, in the treaty of 1867, keeping that in view, that these people, which was provided in Article IV, one of these old chiefs handed me this paper, and protested against these people, and he went over and asked for it, and he was wondering why these people still remained on the rolls, and that is the print that was given him; that is the law, as I have given it, to Chief Bowen Watts, as regards the mixed-bloods who lived off the reservation, Article IV, treaty of 1867, that no member of any units provided for in this or any former treaty of the

Chippewas of Minnesota shall be paid, under half or mixed blood, except those who live with their people upon one of the reservations. Now, other people means here, as the Indians understood it, that is, the Mississippi Chippewas, and other people of the Mississippi, not the Chippewas of the tribe of any other State, because there were a lot of other Indians in Wisconsin and North Dakota and some in Minnesota; that is the one that these people intended to go on the White Earth Reservation, that belongs to the Mississippi tribe, as designated in the treaty of 1854; and in the treaty of 1889, we come as one band again——

The CHAIRMAN (interposing). That is, all the Chippewas one band?

Mr. CASWELL. All the Chippewas. Mr. Ballinger has read the act. And then there is always a turning point on which we center the whole thing, and in the first part of the act, in section 1, it represents that the commission was to go and treat with the Indians about the title and interest in these several reservations in the State of Minnesota. We contend that these people did not have any rights to sign this treaty, because they had no title; they had relinquished it already; and they did not have any interest; they did not have anything to relinquish. They were on the rolls, but that is not our fault; we protested against these people, but they got on the rolls somewhere, and it is not our will as a tribe. Some chief may have added a few names while he was under the influence of fire water. We are not responsible for this.

Now, this is our contention why we do not have a peaceful time. Now, there are about 2,000 of such people, and as you remember there were 417 selected, this council, which governs the whole State of Minnesota, control the Chippewa matters, and I will come to that, how that happened.

The CHAIRMAN. You want to get to it pretty promptly now.

Mr. CASWELL. All right; thank you. The other mixed bloods that belonged to our tribe never did take great interest in the councils, but they know that the Indians are liberal and kindly. They always give them what comes to them because they regard the mixed bloods as their own children. They always provide for them as they provide for themselves. The election on which this general council was recognized took place at Twin Lakes. The designated place was not there. It was provided that there should be a Government official. It was not really an Indian council as provided by the constitution of the general council, and they brought in some officers in there to make the agent's ruling or the superintendent's ruling effective, and then when we voted—he appointed me to collect, so I could not marshal my forces or help to marshal them.

The CHAIRMAN. Let us see about that. You were advised there was to be an election?

Mr. CASWELL. Yes, sir.

The CHAIRMAN. How long before the election?

Mr. CASWELL. I could not say; about a couple of weeks.

The CHAIRMAN. And that was not time enough for you to marshal your forces?

Mr. CASWELL. Not to marshal my forces, but I was about 110 miles away from the reservation; I couldn't do it. I simply went there the day before the election took place. We were scattered. And then the Indians, the full-blood faction, are not rich people.

The other side, the other people, had amassed wealth, and can afford to have automobiles to carry their people. I counted about 80 different automobiles there that brought their people for them.

The CHAIRMAN. You did finally get to an election?

Mr. CASWELL. Yes, sir.

The CHAIRMAN. And you voted on the question?

Mr. CASWELL. We voted on the question.

The CHAIRMAN. What was the vote?

Mr. CASWELL. If I remember right there was 417 in their favor and ours about 256.

Mr. KELLY. Every Indian had the same notice, didn't he?

Mr. CASWELL. Not every Indian, because every Indian can not read.

Mr. KELLY. But the word was conveyed to every Indian, full blood and mixed blood alike, that there was to be an election on a certain date?

Mr. CASWELL. I couldn't say.

The CHAIRMAN. Notices were sent out and posted in the regular way?

Mr. CASWELL. There was a notice sent to me, and if a notice was posted on a wall, a hundred Indians may pass and not notice it.

Mr. RHODES. Do you mean to say, Mr. Caswell, on account of the full bloods living so far away and being poor people and scattered they were not able to attend this meeting?

Mr. CASWELL. Yes, sir.

Mr. RHODES. Mr. Chairman, inasmuch as this gentleman seems to be a well-meaning man and is hurried a little more than he ought to be, and his time is about up, I suggest that he be given an opportunity to file a statement; in other words, complete a statement of what he would like to say this morning and let it be printed in the record in connection with what he said at this time.

The CHAIRMAN. He has a couple minutes left yet.

Mr. CASWELL. If that is the case, I would be willing to do that.

The CHAIRMAN. How soon would you be ready to file a statement?

Mr. CASWELL. Why, I have a great deal to say.

The CHAIRMAN. I understand, but we don't want to give permission to print a book on the subject. It ought to be condensed to some extent.

Mr. CASWELL. Yes; I would.

Mr. HERNANDEZ. It seems to me Mr. Caswell should not go back over 1889 anyway.

The CHAIRMAN. No.

Mr. CASWELL. I want to show the methods of the election. We never could get justice from these people the way they run the council. Now, these 417, we, of course, protested the way they elected these people. They elected them at wholesale. I will describe, as I was one of the committee appointed. Somebody made a motion that the Chair appoint a committee to select the delegates. The Chair has already been instructed who to select, and the motion was carried, and they hurried through. Some of those Indians did not know what was going on. They are like some of these fellows here [indicating]. They do not understand English, and it is passed and the Chair gets up and appoints certain people. Now, it looks pretty

fair. We say we appoint six committeemen, three will be full blood and three will be mixed bloods.

That looks very fair and all that, but the Chair appoints a full blood as chairman, and the vote stands 3 to 2. The chairman did not usually vote except on a tie vote, at least on the committee that I belonged to, and then when we got to the committee room—of course, I intended to be on the full bloods, so the representation would be equal—and the printed list was already given us of the 62 delegates to be named, and there were 57 already selected on a type-written paper presented to us. We objected to it, and, of course, we were outvoted 3 to 2. And of the six or seven remaining we selected three, and those delegates control the whole State.

Mr. KELLY. Let me stop to say this: The conflict between you and the testimony we heard the other day is this: You claim the full bloods did not get a fair chance at that election, and yet it was testified the other day that the superintendent said that he made an effort, issued rations, and had dances and powwows, and everything was done to get them there. Is that true or not?

Mr. CASWELL. I think they had powwows, but none before the election.

The CHAIRMAN. Now, Mr. Caswell, your time has expired, and I would like to suggest to Mr. Rhodes that in connection with his offer to have a statement filed in the record that previous to the filing of that statement that he submit it and let us see whether it is too voluminous to put in. It is perfectly agreeable to me to have him file a statement, but I think that it ought to be submitted before we put it in.

Mr. RHODES. I do not know that he wants to file any, but I thought it was apparent that he would not get through.

The CHAIRMAN. Would you like to file a statement?

Mr. CASWELL. Certainly I do, because I am not half through.

The CHAIRMAN. I suggest that he get his statement ready to file and submit it to the committee, and we will examine it, and if there is not anything in it that is not entirely foreign or immaterial we will print it. Make it as brief and concise as possible.

(Mr. Caswell's written statement follows:)

Mr. Chairman, Committee on Indian Affairs of the House, and members of the committee, you have granted me permission to make a written statement in addition to my verbal statements, for which I thank you most profoundly for whom I speak—the real Minnesota Chippewas.

Four hundred and seventeen votes on the White Earth Reservation alone could not reasonably be expected to dominate about 12,000 people, if majority rules. The demand of the Indians of White Earth Reservation was to be granted by the Beaulieu-Fairbanks faction a partial representation in their demand of one-half of the 66 delegates to the last council held at Cass Lake, Minn., July 8, 1919. This demand was made to test the Beaulieu-Fairbanks faction that if they really mean to be just to the tribe they will grant the request, as this would have proven to the real Indians that the Beaulieu-Fairbanks faction incline to be fair. They flatly refused and resorted to their old machine methods of selecting the 66 delegates who do control the general council of the Chippewa Indians. The methods used are substantially as follows:

"Mr. Chairman, I move that a committee be appointed by the chair to select the delegates who will attend the general council."

"Mr. Chairman, I second the motion."

The chairman then appoints the committee, the majority being the men of their choice, if equal in number of each faction, the chairman who has no vote, is that of the full-blood faction. When this committee brings in its report, it is then moved to approve the selection of the committee (after reading the names hurriedly), seconded,

and passed. The selection of the committee is such that the delegation from White Earth Reservation has not its own mind and this delegation controls the Minnesota Chippewa matters. This is about the method that was used in 1918 and 1919 councils. The council of 1918 was not approved by the Indian Bureau, but 1919 was, because the Indian Bureau had committed to approve beforehand if certain conditions were complied with. The Indian Bureau was honest in its efforts to have a representative council, but it is exceedingly unfortunate that it misplaced its confidence in a party who was supposed to see fair play prevail. The gentleman himself spoke to me after the White Earth delegations had been selected, in which he stated: "What happened at this White Earth election? It will be up to the general council to decide which delegation to seat." At the time he spoke to me herein just quoted, he had not then been designated to see fair play prevail at Cass Lake. But just listen how different this talk when he came to Cass Lake with delegated powers from the Indian office. His whole attitude was to seat the White Earth contested "Lake Superior Chippewa delegation." He told the council that if, we did not like his way—he told us to get out of the council room (Cass Lake armory), and pointing, he said, "There is the door." A great many delegates from other reservations (ceded) did not understand the English language, but Mr. James I. Coffey interpreted the ultimatum. The following Indians got up in a body: Cass Lake delegation, Leech Lake delegation, White Oak Point delegation, Nett Lake delegation (except Mr. Pequette), Winnibigoshish delegation, Mille Lacs delegation, White Earth (contesting) delegation; leaving in the hall remaining (including spectators), Fond du Lac delegation, Grand Marais delegation, White Earth (contested) delegation.

It will be observed in the above list which delegation from White Earth Reservation would have been seated. The Beaulieu-Fairbanks faction, we believe, knew this; hence the arbitrary action of the Indian Bureau representation. After we left the council room Mr. Morrison conducted duties of a presiding officer.

I wish to say as to the bill, House of Representatives redraft, that on page 4, line 6 to line 13, inclusive, provides a safeguard, but this can be annulled on the proviso of page 7, line 1 to 17, inclusive.

The ignoring of all other treaties and acts of Congress in the provision of the bill, page 7, line 24 to page 8, line 3, is absolutely objected to.

Section 2 objectionable. It contemplates to destroy the playground of the United States. The Indians pay for the forests and land is provided in the act of May 23, 1908.

There should be no legislation at this session for the reason that there are to many controverted questions contained in the proposed bill.

As we understand, when the duration of the Nelson Act, January 14, 1889 (25 Stats., 642), it runs 50 years—1889 to 1939. The final act will be the distribution of funds "to then living members" to share alike. What the ministerial branch of the Government does not change the time. What the Indian is made to understand in treaties or agreements with the Government governs.

Yours, very respectfully,

BENJAMIN CASWELL.

400 NEW JERSEY AVENUE NW., WASHINGTON, D. C.,

March 16, 1920.

(Mr. Caswell not having furnished the list of names alleged to be illegally on the Chippewa roll, it is, therefore, omitted.)

MR. BALLINGER. Let me make a statement in that connection: Will Mr. Caswell serve a copy of that on me so that we can examine it?

THE CHAIRMAN. That is up to Mr. Caswell. I don't think this committee can direct Mr. Caswell to do anything but bring his statement. You go ahead and do the best you can with that. Who is the next witness?

MR. MERITT. Mr. Walters, of the White Earth Reservation.

STATEMENT OF GEORGE WALTERS, WHITE EARTH, MINN.

(The statement of Mr. Walters was given through William Lufkins, interpreter.)

THE CHAIRMAN. Ask him to proceed in his own way for 15 minutes, and tell us why he favors or opposes the proposed legislation.

MR. WALTERS. Gentlemen, I thank you for allowing me to speak before this body, as others have spoken here. I object at this time.

My objection is this, that they are going to take away this pine forest in this legislation; and I object to these men who are about to take allotments on these pine lands, and there is no more pine in the State of Minnesota—just a few left standing of pines, and I would rather see a perpetual forest made of that pine that is left in that forest. We will use them some day. It will become more valuable, and at this time you could not get as much value out of it now as you would afterwards. That is one of them.

And there is this money which we have in the general fund. We do not want that segregated at this time. Our chief signed a treaty and made this agreement, that for 50 years it was for their posterity, and at that time then it would be distributed. And we did not instruct this man [he points these out] and that man [indicating] he never seen before. Opposing this legislation he never instructed him to do that. These men who are trying to run our affairs all look just like that man [indicating] and that one there [indicating]; they want to be the boss of all our property. And we are the heirs; we are the real property owners, the real Indians. We have that right and equity in the possessions of those of our forefathers. In the past we have used them only as interpreters in our business affairs. We never proposed this legislation, and should we propose any legislation we will come here to propose it. These are merchants. These men here [he means these] are merchants, and they want this money distributed where they can get it; and if we distribute all this money we will not do right by our children. They will not have enough to be taken care of.

And I wish to say a few words regarding the General Council. These are the same men, these Frenchmen, are the ones that put that General Council up there, and are trying to take it away, even if you make any arguments or challenge their statement in the council they start proceedings against us. There was one man here, while I said something about the General Council, he said that he would have me arrested if I persisted in my talk. That is how they want to run us. That is the way they do things. This is our council, and this is ours by right, and they have no right to dictate to us. That is one of them.

One more. I want to speak about the schools. I want to state that this closing of the schools—these mixed-bloods closing the schools, I do not know if the Indian Office Commissioner has recommended it, but we dislike that move very much. At this time the school is different from what it was. I see myself—that is, I go and see. The buildings are getting bad and dilapidated. Some children do not have their noonday meal, and some of the children are not well clad, and Minnesota is a very cold State. And while the Government was running the schools and it was under the supervision of the Government, the schools were well organized; that is, they were in better condition, the children were.

Gentlemen, if we were using any of your money, and if we are wasting it, do not let us have it. Let us use our own money in educating our children. We like to see our children go to school. We believe that you white people—that it is your wish for us Indians to become educated. Of course, we did not set aside, but we would rather do it; we are reaching with both arms to have our children educated, and when we use that money in that manner, we think that the money is well spent.

The first appropriation for the General Council was \$6,000, and that was not enough and they asked for an additional appropriation of \$10,000. We would like to know when they are going to have sufficient money to run this General Council. Is that \$10,000 insufficient? That is all I want to say at this time, and I thank you very much.

Mr. KELLY. Ask him whether he represents the full-bloods on the reservation.

Mr. WALTERS. Yes, sir.

Mr. KELLY. Is he a full-blood himself?

Mr. WALTERS. Yes, sir; I don't know what that is, but I am an Indian.

Mr. KELLY. He means a full-blood Indian?

Mr. WALTERS. I don't feel that way; I do not feel the full-blood.

Mr. KELLY. Well, he means there is white blood in him; is that the deal?

Mr. WALTERS. He could not say that; he could not state that.

Mr. KELLY. Well, now, he made a very strenuous objection to the allotment of these pine lands. Of course, he has never had any allotments himself; ask him if he has had any allotments?

Mr. WALTERS. Yes, sir.

Mr. KELLY. Oh, he has had an allotment of his own.

Mr. WALTERS. Yes, sir.

Mr. KELLY. Now, he objects to allotments; was there any pine land in your allotment?

Mr. WALTERS. He took 80 acres on the prairie, and he went to the agency office and placed on the map, on the place there where he was to take an allotment; it happened to be pine land.

Mr. KELLY. Then he has 80 acres of pine land; that was his allotment?

Mr. WALTERS. Yes; it happened to be pine land; that is how I got my 80 acres of pine land.

Mr. KELLY. Of course, he has that 80 acres of pine land at the present time, has he?

Mr. WALTERS. I have the land, but I have not got the pine; I disposed of my pine.

Mr. KELLY. Does that mean that he has sold the pine land allotment?

Mr. WALTERS. All the pine off the allotment.

Mr. KELLY. How much did he receive for the pine when he sold it?

Mr. WALTERS. \$14,000.

Mr. KELLY. Then the chief wants us to understand that he is opposed to anybody else having pine land allotment except himself; that he may have it and get his \$14,000 for it, but he objects to anybody else having the same right?

Mr. WALTERS. I do not object; that is, to somebody getting it, but the Indians do not want it that way.

Mr. KELLY. He has had the advantage himself; he must have wanted it himself, but he speaks for others instead of himself on that ground?

Mr. WALTERS. Everybody took allotments; that is, on the White Earth—most everybody has been allotted on the White Earth. Who is the one that is going to be allotted on these pine lands here?

Mr. KELLY. Well, the chief objects to anybody else being allotted, but he had it himself.

Mr. ELSTON. When he speaks of pine lands does he mean on the Red Lake, or White Earth?

Mr. WALTERS. I am talking about the Cass Lake, at Pine Forest.

The CHAIRMAN. Now, as I understand the chief, he is absolutely opposed to any legislation of any kind at this time with regard to closing up the Chippewa affairs?

Mr. WALTERS. Yes; the Indians that I represent do not want legislation at this time, and I oppose it.

The CHAIRMAN. Does that mean that he is satisfied with the way that the Indian Bureau is handling the affairs of the Chippewa Indians?

Mr. WALTERS. Yes; we have great confidence in the Government.

The CHAIRMAN. And how many Indians does he claim to represent?

Mr. WALTERS. Almost all the full bloods—real Indians—just a few—

The CHAIRMAN (interposing). How many full-bloods does he claim there are in the Chippewa Nation?

Mr. WALTERS. Well, figuring on the dot, I would say it would be about one-third.

Mr. RHODES. Mr. Kelly seemed to raise the question that the chief had received an allotment and objected to other people receiving allotments. Now, the chief does not mean that he is the only member of this tribe who has received an allotment; now, isn't it a fact that every member of his band also received an allotment?

The CHAIRMAN. On the White Earth Reservation?

Mr. WALTERS. Under a treaty I got 80 acres; I had the preference of staying there and taking the 80.

Mr. RHODES. Is this land subject to taxation?

Mr. WALTERS. No.

Mr. RANDALL. Is it not a fact that you are enrolled as a mixed-blood?

Mr. WALTERS. I could not state that.

Mr. RANDALL. And by virtue of the fact that you were enrolled as a mixed-blood, is the only reason that you could sell the pine land and get this allotment?

Mr. WALTERS. Well, almost every Indian has been—that is, is made a mixed-blood by the work of these men.

Mr. RANDALL. Does he claim that in fact he is not a mixed-blood, but is a full-blood Indian?

Mr. WALTERS. Yes; and I finally told them I was a mixed-blood, and I guess I was about the last one that finally got the purchase of pine; I told them I could not sell it and was not a mixed-blood.

Mr. RANDALL. But you did sell it by virtue of the fact that you were enrolled as a mixed blood?

Mr. WALTERS. I do not know about the rolls—being enrolled as a mixed blood, but myself, it was the lumber man that finally bought this pine from me.

Mr. RANDALL. Did you, yourself, attend the Government school?

Mr. WALTERS. A very short time.

Mr. RANDALL. About how long?

Mr. WALTERS. About three years.

Mr. RANDALL. Did you finish the course provided in the Government Indian School?

Mr. WALTERS. No, sir; I just about learned my A B C's, and that next book.

Mr. HERNANDEZ. Chief, you certainly do not object, since the White Earth Indians, and all other Indians in the other agencies have received their 160 acres of land—you certainly do not object to the Red Lakes receiving 160 acres of land in severalty, do you?

Mr. WALTERS. I have nothing to say about the Red Lake Indians; that is their property.

Mr. HERNANDEZ. That is, he has no claim whatever—he, or his band, have no claim whatever on the Red Lake Reservation?

Mr. WALTERS. It is my impression that it is their land, and I can not say—I would not dictate how they should dispose of their land.

Mr. ELSTON. Ask him if he attended the general council meeting, at which the present general council was elected, and what objection he has to the present general council as now constituted?

Mr. WALTERS. The local or the general council?

Mr. ELSTON. The general council.

Mr. WALTERS. Yes.

Mr. ELSTON. Well, he objects to it—oh, he attended it?

Mr. WALTERS. He attended it.

Mr. ELSTON. Ask him if he voted, and if he thought it was conducted fairly?

Mr. WALTERS. Yes. The Indians had met there, and held their general council fairly.

The CHAIRMAN. They met, and had a fair election; ask him if he considered that the election was conducted in a fair way?

Mr. WALTERS. I do not know what they done, but the agent that presided there sent us out; I don't know what they done.

The CHAIRMAN. Now, what does he mean by saying that the agent sent them out?

Mr. WALTERS. When our delegates got there the agent told them, after a little while, he told them that there was a door there that they could go out. "You fellows persist in talking—keep talking." He says, "There is a policeman here will take you out."

The CHAIRMAN. Well, was that after they had voted, or before?

Mr. WALTERS. When they were going to start the general council.

The CHAIRMAN. Then the reason that the chairman of the meeting directed them toward the door was that they were a disturbing element; is that the idea?

Mr. WALTERS. I suppose that was it.

The CHAIRMAN. Now, was the reason that they did this because they had not been elected as delegates to that meeting?

Mr. WALTERS. I don't know, but they sent us out.

The CHAIRMAN. Well, he knows whether he and those accompanying him were regularly elected delegates to that meeting by the local council?

Mr. WALTERS. I suppose that is why they sent us out.

The CHAIRMAN. Because they were not regularly elected delegates?

Mr. WALTERS. Yes, sir.

The CHAIRMAN. Has he, himself, the chief, been elected a delegate to that council?

Mr. WALTERS. Yes; they sent for me there and of course, I do not know where this request came from, but I was requested to be at the Cass Lake.

The CHAIRMAN. He does not know whether he was elected to go to that council or not?

Mr. WALTERS. No; I would not have them appoint me [indicating certain men in the room] as a delegate to any place. The Indians elected.

The CHAIRMAN. I think that we have gone far enough with that. I guess we can see about what the situation was. I would just like to say to the chief, in closing, that if he is not a full-blood Indian, then Mr. Remington, the celebrated painter of Indians, has been illustrating for us people who are not full bloods.

Mr. WALTERS. Just one more thing.

The CHAIRMAN. I am trying to compliment the chief that he is, according to Mr. Remington, the illustrious portrayer of Indian characters, that he is a true type of a full blood Indian, as portrayed by him.

Mr. WALTERS. Will you allow me to speak a few more words?

The CHAIRMAN. Yes.

Mr. WALTERS. I made a proposition that these men here allow me to have half of the delegates and half for them—a compromise; three times I have asked them that, and they have always answered me, "No; why do you ask us, you are going to help the Commissioner of Indian Affairs." That is all.

The CHAIRMAN. Who is next?

Mr. MERITT. Wah Bee Zha Shee, Leech Lake Reservation, Minn.

STATEMENT OF WAH BEE ZHA SHEE, LEECH LAKE RESERVATION, MINN.

(The statement of the witness was given through William Lufkins, interpreter.)

The CHAIRMAN. Now, Mr. Lufkins, will you qualify the gentleman and tell us who he is, and where he lives?

Mr. LUFKINS. His name is Wah Bee Zha Shee, Leech Lake Reservation, Minn.

The CHAIRMAN. Can you talk English at all?

Mr. WAH BEE ZHA SHEE. Not at all.

The CHAIRMAN. How many Indians does he claim to represent?

Mr. WAH BEE ZHA SHEE. Mostly all of them except a few.

The CHAIRMAN. Well, is he a regularly elected delegate from any local council?

Mr. WAH BEE ZHA SHEE. Yes, sir.

The CHAIRMAN. Well, name the council, please.

Mr. WAH BEE ZHA SHEE. Cass Lake.

The CHAIRMAN. He represents the Cass Lake full-blood Indians?

Mr. WAH BEE ZHA SHEE. That is where they met.

The CHAIRMAN. And he represents the Cass Lake Indians?

Mr. WAH BEE ZHA SHEE. I represent the Leech Lake Indians.

The CHAIRMAN. Now, let him tell us in his own way, if he can, why he opposes or favors this proposed legislation?

Mr. WAH BEE ZHA SHEE. I am glad that I have the chance to state what I have been instructed to state before this committee.

What I am going to state is the opinions of the Leech Lake Indians I am going to say nothing but the true facts, and the truth as to what these Indians sent me here for. We are apprehensive about some of this legislation—of Indians at Leech Lake. Most of the Indians, a great majority of the Leech Lake Indians, would not understand this proposed legislation; that is, to read it, and that is the element that I represent. But we have been informed by those who can read that this proposed legislation is going to hurt the Leech Lake Indians; that this legislation is a proposition that has been initiated by a few doubtful members of the mixed-blood element.

Generally the proposed legislation is passed, and then after it is passed we know something about after it comes up, and then we are surprised that such legislation has passed.

MR. RHODES. Chief, how will this legislation hurt the Leech Lake Indians?

MR. WAH BEE ZHA SHEE. Because this legislation has been started and proposed by some questionable members—that is, who continually seek to grab the property of the other Indians and us Indians there.

THE CHAIRMAN. Tell him now to go ahead with his statement.

MR. WAH BEE ZHA SHEE. And this property, this is our property, and we have not held a council as to the best way to dispose of this property. Somebody else has initiated the idea of how they are going to dispose of us at Leech Lake. At this time we oppose this legislation and we wish to ask that we sit—when I get back—to think this over as to the best legislation for the Leech Lake Indians. We ask this—that is, the Leech Lake Indians have asked this—because we are fearful that somebody, as in the past, is seeking to fill his pockets at the expense of the band of Indians; and I think that this committee is fair; that is, it appears as if they are interested, and I have great confidence, and I ask them to help us.

THE CHAIRMAN. Now, you can say to the chief that he will have ample time to study the report that will come from this hearing before any legislation will take place, and I would be glad to hear from him and his council as to their opinion as to the legislation, in the form of a resolution or something of that sort, later on.

MR. WAH BEE ZHA SHEE. Yes, sir.

THE CHAIRMAN. And we thank him for his information. Has he anything further to say?

MR. WAH BEE ZHA SHEE. No, sir; that is all.

THE CHAIRMAN. Now, there are two members of the Red Lake Band?

MR. MERITT. Mr. Broker, of the White Earth Reservation, wishes to be heard next.

MR. LUFKINS. He wants to say just a word more.

THE CHAIRMAN. Very well; let him proceed.

MR. WAH BEE ZHA SHEE. The first we heard of this legislation last fall we heard that Ed Rogers was coming to Washington, and after that we heard that somebody has introduced legislation, and the Leech Lake Indians didn't know anything about the proposed legislation until it was introduced. The Leech Lake Indians never had a meeting with Ed Rogers or never employed him to introduce legislation for the Leech Lake Indians.

THE CHAIRMAN. All right; if that is all, Mr. Broker, we will hear you.

STATEMENT OF MR. J. W. BROKER, PONSFORD, WHITE EARTH RESERVATION, MINN.

The CHAIRMAN. Give us your name in full and tell who you represent.

Mr. BROKER. J. W. Broker, Ponsford, White Earth Reservation, Minn.

The CHAIRMAN. What blood Indian are you?

Mr. BROKER. Full blood.

The CHAIRMAN. What is your position in the affairs of the Indians?

Mr. BROKER. As I stand here?

The CHAIRMAN. No; who are you a representative of; any particular band?

Mr. BROKER. The Otter Tail Pillager Band.

The CHAIRMAN. Are you a representative or were you selected by that band?

Mr. BROKER. Yes; by the council that was held at Cass Lake. This council was under the auspices of Congressman Carss, and he suggested a representative body of the Indians there, and they should select a delegation, and he would see that they would be heard, and I was selected at that meeting.

The CHAIRMAN. Well, sir, in behalf of Mr. Carss, you are now being heard.

Mr. BROKER. Yes; I suppose.

Mr. KELLY. Just before you begin; were you elected a delegate to the general council at Cass Lake?

Mr. BROKER. Well, there were two contending factions of the White Earth Reservation. I don't believe anybody has touched upon that particular point. If you will permit, I want to explain that. Now, the constitution or the by-laws designate White Earth as the meeting place for the local council, but through some arrangement here with the Indian Department that it was to be held at Pinehurst, and I believe Mr. Dickens, agent at that time, was the man designated to see that that thing was properly done; but there was some dissatisfaction there some way between the mixed bloods and the full bloods, and there was two sets of delegates elected, one by the full bloods and one by the mixed bloods.

Mr. KELLY. Who had the majority there, Mr. Broker?

Mr. BROKER. Well, on the first ballot that was taken of course the mixed bloods were in the majority. I think they had something like 417 votes.

Mr. KELLY. And the full bloods had how many?

Mr. BROKER. Two hundred and fifty-some odd. But the Indians contended at that time that there was a lot of those fellows that voted in there had no right to vote; that was the bone of contention for the last 25 or 30 years, that they never did have a right to vote; but they are still on the rolls. Finally, on July 8—

Mr. ELSTON (interposing). What year?

Mr. BROKER. 1919. On July 8, 1919, these two sets of delegates proceeded to Cass Lake, and there a big bolt took place, and these contending factions wanted to be seated—each one wanted to be seated, and Mr. Dickens refused to consider anything but to see the credentials, and he saw Mr. Coffee, and there the bolt took place.

Mr. KELLY. Mr. Dickens acted only by what the credentials showed?

Mr. BROKER. Yes; but when the Leech Lake delegation went out the Cass Lake delegation went out.

The CHAIRMAN. But Mr. Dickens was the proper authority to determine who were the legally elected delegates; he was the legal authority to determine who were the legally elected delegates to that council?

Mr. BROKER. I don't understand it that way. I suppose his instructions were to see that it was done right.

The CHAIRMAN. Some one had to determine who were the delegates to that council?

Mr. BROKER. The people themselves, as I understand it.

The CHAIRMAN. Wasn't that election carried on the same as all other elections were carried on theretofore?

Mr. BROKER. Here is my understanding at that time——

The CHAIRMAN (interposing). You had attended other elections——other councils?

Mr. BROKER. Yes, sir.

The CHAIRMAN. Wasn't it carried on exactly the same as they had been carried on theretofore?

Mr. BROKER. Well, they carry on elections there in different ways.

The CHAIRMAN. Well, I am asking you the question; if this was different from any others, you can say so.

Mr. BROKER. There was no vote taken on this Cass Lake Council whatever, but the bolt came before the delegates were seated.

Mr. KELLY. But you are forgetting the local council; that is where the delegates were elected.

Mr. BROKER. Yes; on the White Earth Reservation. But there was no contention on the rest of the delegates.

The CHAIRMAN. The contention was on the White Earth delegation?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And they were directed not to participate?

Mr. BROKER. Yes, sir.

The CHAIRMAN. What was the reason given for that?

Mr. BROKER. The proposition put up to the council at that time was that those two contending delegations should be set aside and the remainder of the delegations vote on who would be seated of the contending delegations, but that proposition was turned down, and Mr. Dickens proceeded to determine on his own account.

The CHAIRMAN. I think we can understand what you mean. There were contesting delegations from the White Earth council?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And it was proposed that the other delegations should determine who should be seated?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And then Mr. Dickens decided that it should not be so done?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And he decided that neither should be seated?

Mr. BROKER. No; he seated the majority.

The CHAIRMAN. Then, he seated one of the sets of delegates that came there?

Mr. BROKER. Yes, sir.

The CHAIRMAN. Now, did he seat the set of delegates that came there with a majority vote?

Mr. BROKER. I think so; yes, sir.

The CHAIRMAN. What contest could there be over that; wasn't that fair?

Mr. BROKER. The contention was that the local council—instead of an election there, it was a selection.

The CHAIRMAN. Well, that is a distinction without much difference. Anyhow, the election was held and the majority of those who were selected—that is, the majority of those that were there selected—that is the council that is now recognized; that is correct, isn't it?

Mr. BROKER. There was a bolt there also.

The CHAIRMAN. Now, what are you here to tell us; anything more than that?

Mr. BROKER. I want to simply now state my objections to the bill.

The CHAIRMAN. That is what we would be very glad to have you do.

Mr. BROKER. This committee print is about the same as the last—

The CHAIRMAN (interposing). The committee print is the thing that you want to consider.

Mr. BROKER. All right. Now, my objection to the bill—

The CHAIRMAN (interposing). That is, your first objection?

Mr. BROKER. Yes. Section 1 is the reenrollment act. Now, on page 8, that the people have no referendum whatever, and no appeal provided in case a commission should misappropriate their authority as to determining who should have a right; no appeal taken therefrom.

The CHAIRMAN. I will suggest to Mr. Broker that if he desires to do so, he can submit a brief or a statement with regard to your objections to the bill, and whether or not you could offer some suggestions that might assist the committee in creating legislation that would be satisfactory to your people, and if you desire to do that you need not be heard any further. If you have got any definite statement that you want to make to us, go ahead and do it; you can have 5 or 10 minutes. We would be glad to give it to you, but not to discuss your objections to the bill; we much prefer to have you put that in the record.

Mr. BROKER. I desire to say that the bill itself—the administrative part of the bill—I object to entirely; it has no place alongside of the jurisdictional act. I believe what is absolutely necessary for the Indians to have is purely a jurisdictional act.

The CHAIRMAN. Are you a lawyer?

Mr. BROKER. No, sir.

The CHAIRMAN. What is your business?

Mr. BROKER. Farmer; everything that I can make pay.

The CHAIRMAN. Do you operate a farm?

Mr. BROKER. Yes, sir.

The CHAIRMAN. What is the size of your farm?

Mr. BROKER. Well, different sizes.

The CHAIRMAN. Do you have more than one farm?

Mr. BROKER. I farm as much as 700 acres at one time; I have in my life.

The CHAIRMAN. What do you raise on your farms?

Mr. BROKER. Wheat.

The CHAIRMAN. Mostly wheat?

Mr. BROKER. Wheat and small grains.

The **CHAIRMAN.** Have you anything further to say to us in regard to the matter?

Mr. BROKER. No. Of course, I want to have a chance to state my objections to the bill.

The **CHAIRMAN.** The committee has given you a right to state your objections in writing, and if you want to say anything further verbally we will listen to that.

Mr. BROKER. There is one particular thing—the enrollment—adding to the roll; I don't believe there is anyone to add to the roll.

The **CHAIRMAN.** You rather think there are too many on the roll already?

Mr. BROKER. Yes; too many on the roll that ought not to be on the roll.

The **CHAIRMAN.** Well, that is a matter that we can not settle right here now.

Mr. BROKER. And, of course, the desire of the Indians is to have the opportunity to take this matter to a court and have the equity established, just the same as in a probate case.

The **CHAIRMAN.** That is just exactly what this bill designs to do, as I understand it.

Mr. BROKER. Then the Indians also want to have that opportunity. They never were satisfied with the ruling of the department, although the department did not rule on it.

The **CHAIRMAN.** You do not agree on that. You say the Indians are not satisfied, and yet we have just listened to two Indians who say they are fully satisfied with the way the department is handling the matter, and they seem to be full Indians; at least, claim to be full-blood Indians.

Mr. BROKER. Perhaps they are satisfied with the administration part of it, but I do not believe they are satisfied that this ruling by the department—with this ruling of the department; and that has been the conflict, and that has been the bone of contention all along.

The **CHAIRMAN.** You are speaking of the ruling put into the record?

Mr. BROKER. Yes, sir.

Mr. RHODES. You stated your occupation?

Mr. BROKER. Yes, sir.

Mr. RHODES. And Chief Walters referred to the occupation of another gentleman present; what is his business?

Mr. BROKER. Mr. Walters?

Mr. RHODES. Yes.

Mr. BROKER. I don't know; I suppose he lives on his allotment; whether he is farming or not I could not say.

Mr. RHODES. He seems to be a very energetic citizen, too much so to be without an occupation.

Mr. BROKER. He is a kind of a leader amongst his men, sir.

(Mr. Broker's written statement follows:)

WASHINGTON, D. C., March 16, 1920.

HON. HOMER P. SNYDER,

Chairman House Committee on Indian Affairs:

In compliance to your committee request that I make a statement in writing I will confine my statement entirely to the bill now pending. In the first place, the Indians that I represent object to anyone being added to the rolls of the Chippewa Indians for the reason that as many as 200 or more of the descendants of the so-called Lake Superior scrippers have repeatedly endeavored to get on the rolls of the Chippewa Indians,

and another thing as the bill provides in section 1 that the action of the commission therein provided is final and conclusive, no appeal is provided in case the commission should misappropriate their authority as to their decision in any case. I desire to say the terms provided in the bill for sale of surplus land are not good terms. Section 3 of H. R. 12973 provides for the conveyance of school land to the State. I desire to say while the system may be well applied to part of the White Earth Reservation it will not be practical as applied to the other reservations, as the Indians people generally know nothing about township government. It would be well for the officials in authority, jointly with the State officials, to make a thorough investigation of the matter before abolishing the Indian schools. Section 4 provides for the establishment of town sites. Town sites are not desired anywhere only on the Red Lake Reservation; therefore the General Council of the Red Lake Band of Indians should be consulted in this matter.

Section 9, as to my understanding, has a tendency to take treaty rights away from the Indians. In all I oppose the bill entirely on the grounds that it has no place alongside or in a jurisdictional act.

JOHN BROKER.

The CHAIRMAN. Who is next?

Mr. MERITT. Attorney McDonald would like to be heard now.

The CHAIRMAN. As we are trying to close to-day, can you do with 10 minutes?

Mr. McDONALD. It is out of the question.

The CHAIRMAN. How about 15?

Mr. McDONALD. I would ask your committee to give me until adjournment hour at 1 o'clock.

The CHAIRMAN. Are there any other witnesses?

Mr. MERITT. Yes, sir; two Red Lake Indians and Attorney Henderson.

The CHAIRMAN. Can't you start in and make your statement as brief as possible and submit the balance in writing?

Mr. McDONALD. I will do this: I will start in, and then stop if the committee desires at any time.

The CHAIRMAN. You are going to talk in behalf of the Red Lakes?

Mr. McDONALD. They will get the benefit.

The CHAIRMAN. Then, why do we need to hear from the other two witnesses on Red Lake? Are they in accord with you on this matter?

Mr. McDONALD. I think they are with reference to the Red Lake situation.

The CHAIRMAN. Well, if you could embody in your statement that of the other two, wouldn't that be satisfactory and agreeable?

Mr. MERITT. They should be heard, inasmuch as they are delegates here.

The CHAIRMAN. All right, Mr. McDonald, you may go ahead and see where we finish up.

STATEMENT OF MR. E. E. McDONALD.

Mr. McDONALD. Mr. Chairman and gentlemen of the committee, I assure you that you are not as anxious to finish this as I am. I have been here since Monday and am very anxious to be at home.

The CHAIRMAN. Mr. McDonald has already qualified.

Mr. McDONALD. Let me speak with reference to the treaties. I have here volume 18 of a publication of the Bureau of American Ethnology, and it is the same volume used by Congressman Steener-son. I endeavored to secure this, and it is now presented to your committee by the bureau at the suggestion of Dr. J. Walter Fewkes. It is difficult to handle, and I have mislaid my glasses, but if I may

move over here I will try to let the entire committee see this entire situation.

The CHAIRMAN. Now, are you going to make a statement about that condition different from what Mr. Steenerson did?

Mr. McDONALD. It will be additional.

The CHAIRMAN. Additional, but not contrary to what he said?

Mr. McDONALD. I may cover briefly some things he said.

I refer to double page 33 of the maps. In this book will be found maps showing the cessions and the reservations on them from the United States. This yellow [indicating] here, No. 289, the southwestern portion of the State, was ceded by the Sioux. You will notice another small cession, 243, and then we come to the cession No. 242 on this page [indicating]. That cession, Mr. Chairman, included a large area in Wisconsin, so that when that cession was, in 1838—this little cession here [indicating], 268, was in 1846. This little cession or reservation, 269, that was a reservation in 1847. That was ceded to the Winnebagoes, and it was intended as a bumper State between the Sioux and the Chippewas.

Now, in 1854, this large area around Duluth was ceded to the United States; it is numbered 332—1854. Now, in 1855, this territory, No. 357, was ceded to the United States with several small reservations. Those reservations—to start with, they are described in the treaty—were four friendly agencies on the south side of Mille Lacs Creek, which was in the territory ceded to the United States by the treaty of 1837; another little reservation—you will see the areas here, and I hope you will consult this—was the Gull Lake Reservation near Brainerd; another little reservation called Sandy Lake—this is Rabbit Lake [indicating]—and another at Grand Rapids. Then another one, Mr. Chairman, a small reservation here, Leech Lake; and another one, a little one, around Winnibigoshish; and another one around Cass Lake.

Now, with the exception of this, there remain in Minnesota but Bois Forte Reservation, 462, ceded in 1862, and this territory marked yellow and green [indicating] 446 and 445.

Now, that was the condition of the Indian reservations in Minnesota. These Indians, the Pembina and Red Lake Indians, enjoyed this property without any cession or act on the part of the United States; their rights were rights of persons in possession.

Now, this treaty of 1855 contained this clause; it goes directly to the question of the rights of all other Indians upon the Red Lake territory, except the Red Lake Indians.

I read now from the treaty with the Chippewa Indians of 1855, proclaimed April 7, 1855. Now, mark you:

ARTICLE I. The Mississippi—

Now, the Mississippi Indians were those that lived up and down the Mississippi River, as far up as Winnibigoshish. The Pillagers, there were two bands, one in the Western part of the State that joined in this cession to the Winnebagoes.

The Mississippi or Pillager Indians hereby cede and sell to the United States.

Now, the Winnibigoshish Indians, if you please, gentlemen, were located at Red Lake; they were no part of the Red Lake or Pembina Bands. Those classes of Indians ceded and sold and conveyed all that territory in this color [indicating on map], which is the large

extent occupying one-third of the north half of the entire State of Minnesota, reserving only the small isolated pieces you see here on this map [indicating].

Now, gentlemen, if you have occasion to use this book you will see these numbers 332 refer to a schedule of land cessions in the first part of the book, and that gives you an abstract of the treaty, or the act of Congress, relating to the territory indicated on that map. Each one of them make such a reference. I will not read any of them, because I want to hasten on.

Now, after that description we find this language—and it has not been called to the attention of your committee, and unless you made a careful survey of this entire act it might escape your attention.

And the said Indians do further fully and entirely relinquish and convey to the United States any and all right, title, and interest of whatsoever nature the same may be which they may now have in and to any other lands in the Territory of Minnesota or elsewhere

Now, it is contended by the gentlemen who represent the general council—I read from section 1, the last portion of that act. It is the contention of the gentlemen who represent the General Council of Chippewa Indians of Minnesota—the voluntary association—that at the time that treaty of 1855 was made, and later in 1889 when the Nelson Act was passed and submitted to the Chippewas, that the Chippewa Indians that he represents, other than the Red Lakes, and the Pembinas, had a common interest in the lands in the State of Minnesota. Such a contention can not find any support by reason of the fact that in 1855 they ceded ‘all their right, title, and interest of whatsoever nature the same may be,’ which was based upon their possession “which they may now have in and to any other lands in the Territory of Minnesota or elsewhere.” There is no act of Congress that gives to these gentlemen that are now seeking to claim an interest in the Red Lake Indians’ property any right, title, or interest therein whatsoever; and it is well known that their title to the land was by reason of the fact that they were in possession thereof as members of some Indian tribe, nation, or band.

Now, let me hastily—and I do hate to be hurried, and I am obliged to hurry, and I am not blaming the committee—let me hastily call attention to the Nelson Act. I will say to you gentlemen I am somewhat familiar with this act, because we tried to prevent Section VII of that treaty being enforced in our territory. I brought suit to restrain “Pussyfoot” Johnson from interfering with our saloons and breweries. Calling attention to the so-called Nelson Act, passed and approved January 14, 1889, and that language is important here in this consideration. And may I read, Mr. Chairman, because my remarks will be connected to it.

That the President of the United States is hereby authorized and directed within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians—

The word “nation” has not been applied to any of the Chippewa Indians since, I think, 1847.

bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake

Reservations, and to all and so much of these two reservations as, in the judgment of said commission, is not required to make and fill the allotments required by this and existing acts, and shall have been reserved by the commissioners for said purposes.

Now, it excepted from the effect of this act all that portion of the Red Lake Reservation, which was this large territory in this yellow on this map [indicating] 446; the Pembina territory having been ceded in 1863 by the Pembina Indians and the Red Lakes, so that this vast territory was referred to in that act and that portion of it that, in the language of the statute, was, "in the judgment of said commission required to make and fill all allotments required by this and existing acts," and excepting that portion "which was reserved by the commission for said purposes."

Now, it was the judgment of these commissioners that the amount to be retained for that purpose, and the amount that was not by the Red Lake Indians ceded, should be the area shown in this map on page 35 in yellow within the border of the other map, which showed the original Red Lake Reservation. Now, that area was described by the commissioners as being the territory which in the language of the statute "except the White Earth and Red Lake Reservations, and to all and so much of those two reservations as, in the judgment of said commission, is not required to make and fill the allotment required by this and existing acts, and shall not have been reserved by the commissioners for said purposes."

It was not, Mr. Chairman; the amount to be reserved was not the amount of land necessary to allot the Red Lake Indians yesterday, to-day, or to-morrow, but the amount that was reserved from that act was the amount that in the judgment of the commissioners then was deemed necessary to fill the allotments of the Red Lake Indians and the amounts which they "reserved for said purposes." So that, in my opinion, that question was settled then and there when the judgment of those commissioners was announced. It can not be settled now by a determination of how much land is needed to allot those Indians. Everything was ceded except that which those commissioners deemed necessary for that purpose, and they deemed that tract necessary which you see on that map in yellow [indicating].

Now, I am not going into the question of this Thief River Falls cession, except to call it to your attention; it is at the west end—Congressman Steenerson said it was at the east end—it should have been west. It is this portion that I have put within the boundaries of the red lines. Now, may I not call your attention to this author's findings, the reference to this subject? Refer to page 934 of the schedule of Indian land cessions found in this volume, and you will read—this is the conclusion of the editor as to what reserved and what did not come within the Nelson act:

Ceded to the United States all their title and interest in so much of the Red Lake reservations as is not embraced in the following boundaries: Commencing at a point on Thief River where the same crosses Marshall and Polk Counties—

and then they go on and describe, Mr. Chairman, this area that I have pointed out to you; they describe that area in yellow that is within this blue as being in their judgment necessary for the purpose of the allotment of the Red Lake Indians, and it was so set aside, and it never came within the force or application of the Nelson Act.

There is considerable talk about the mixed blood, and so on——

The CHAIRMAN (interposing). Before you leave that, what do you say to this paragraph here in the hearings, or report of that commission? After outlining the territory that you have just suggested, they use this language:

This is larger than they will eventually require, but as there are swamps and other untillable land it can not be fully allotted until survey has been made.

Mr. McDONALD. They evidently had in mind that much was absolutely worthless, but that did not change the fact that they determined the quantity that was to be withheld from the Nelson Act. The reason they did it does not make any difference. The amount they did withhold is the property of the Red Lake Indians, because it has never passed from them. It makes no difference what the purpose was. They have violated the provisions of the statute, but that was their selection.

Now, this matter of mixed blood and full blood is important only as the reason why there is no harmony, and let me say to you gentlemen in what I have said and may say I refer to the Indians—I mean those people of full blood, or those people of so nearly full blood and those people of such customs and habits and manner of living that they are really recognized and accepted as Indians; and the mixed bloods are those people who by reason of the quantity of blood—white blood, if you please, or by reason of their surroundings, their modes of life, customs, and so on, are not generally known as Indians. The gentlemen that represent this general council, many of them, are not looked upon by us as Indians. They are scholars; they are business men; they are all skilled in business affairs. If, for instance, you have heard a gentleman spoken of, and his children, and the payments to his children, we would never think that you were speaking of him, if you spoke of an Indian. He is free, and they mingle with those gentlemen the same as if they were white men. They are not distinct from us, so far as that is concerned. And let me call your attention to the fact that prior to the creation of the White Earth Reservation, which is shown in another map here, if the committee please—this reservation here, 6 miles square [indicating], created by the act of 1867. Some gentlemen inquired the other day in reference to what had become of the Pembinas. The Pembinas were up here [indicating]; the Red Lakes and the Pembinas were occupying a large area, clear up into Dakota; they were given a large reservation, and for the time were disposed of.

They had ceded their big reservation above here [indicating]. Now, prior to the formation of that reservation in 1867 the mixed bloods were never recognized as entitled to any portion of any reservation. Now, bear this in mind, gentlemen; after the White Earth Reservation was created the mixed bloods, no matter where they were, were not recognized as entitled to any portion of the reservation; they were taken care of in this way: The treaty of 1837, which ceded that portion in western and central Minnesota, gave the mixed bloods a cash payment of \$100,000. The treaty of 1855 gave the mixed bloods what is known as scrip, or the right to locate 80 acres of land upon the lands ceded. That is when the Indians ceded that entire territory to the United States, with the exception of these few reservations—the White Earth was not in existence then—the mixed bloods were permitted to take—no restrictions—

were permitted to take 80 acres of land; that belonged to them. The treaty of 1863, which was this treaty here [indicating], the mixed bloods were permitted to take within that territory 160 acres of land. Now, under the 1837 treaty, which gave the mixed bloods this \$100,000—well, I am not sure about that—but under some of these treaties Mr. Fairbanks's ancestor was given scrip for 80 acres that was located on some ceded lands.

The records of the Land Office disclose it. I have it here in my grip. The Beaulieu family, recognized as half-breeds, and outside of the Indian family, were also given their cessions upon the ceded portion of the land. But there is not anywhere in any of these treaties a recognition of the mixed bloods as being entitled to participate in any reservation.

Now, briefly on this matter of the White Earth Reservation, prior to the unfortunate legislation known as the Clapp amendment, the only way in which you could get those lands from those Indians there, Chippewas and mixed bloods, was that some of them should die, and then they had what was known in the law as a dead allotment. Then when you had a dead allotment you could go into the probate court and have an administrator appointed for the heirs. Then the administrator could sell the land belonging to those representatives. That was done, and the records disclose that a man who used to be a member of this general council, Mr. Gus H. Beaulieu, acted as administrator in a number of those dead allotments.

Finally that matter became a little slow, and so these men, these mixed bloods, principally white bloods, imposed upon Senator Clapp, as I understand the situation, and made him believe that because of some legislation or some department rule they were being denied the right to enjoy their property, substantially the same as the representations that are made here now relating to some mixed bloods. Acting upon these representations, Senator Clapp proposed the Clapp amendment, and in that he was wrong. He was our Senator, a man that we liked very much, but he was in error. Instead, Mr. Chairman, of determining whether they should enjoy their rights or not, based upon their competency and fitness to administer their affairs, they based it upon the question of whether they had any white blood in them at all. It was supposed, as I understand it, by Senator Clapp and others that the courts would hold that a mixed blood was a man that was practically a white man, but the courts held differently. No matter how small a degree of Indian blood was found in a person, the court held him to be a mixed blood.

Then this matter of looting these unfortunate people started there in White Earth. I do not care to refer to these matters except to say to you gentlemen that they are matters which took place not only in the Interior Office but in your Department of Justice.

Now, gentlemen, let us turn to this bill but briefly. The Chippewa Indians were confronted with what was known as the first Ellsworth bill. I call your attention to the fact that three Congressmen, formerly Mr. Miller, Mr. Lindbergh, and Mr. Steenerson, represented all of this area, and afterwards it was Mr. Carss, Mr. Knutson, and Mr. Steenerson. The Indians were confronted with a bill a year ago, as I recollect it, which was known as the Ellsworth bill. That was followed by H. R. 9924. The first bill was 6461 and it was followed

by 9924, and then by H. R. 12103, then by the committee reprint, now by H. R. 12972 and H. R. 12973.

May I use the committee print?

The CHAIRMAN. I should think that would be the one that you should direct your remarks to.

Mr. McDONALD. I want to finish as quickly as I can, Mr. Chairman.

The CHAIRMAN. We will give you the rest of the time until 1 o'clock.

Mr. McDONALD. Thank you. I speak now of some of the changes in this bill, for the reason that it will explain away such questions as have been raised by Mr. Caswell, Mr. Lufkin, and this old gentleman, whose name I can not speak, Mr. Butcher, whom you have not heard, Mr. Broker, and these gentlemen who represent specifically the Red Lake Indians. I refer to these things because it will tell you in some measure how they questioned the good faith of those men who have proposed this legislation in the form in which it has been proposed.

Now, I call your attention to lines 1 to 9, on page 1 of the reprint, "That a commission of three members, one of whom shall be appointed by the President, one by the Secretary of the Interior, and one by the president of the General Council of the Chippewa Indians of Minnesota"—I am reading it as it was drafted first. That brings us squarely to the question of what is the general council of the Chippewa Indians of Minnesota. A voluntary association—somebody has suggested that it has been incorporated, but it had not been up until some time ago—was formed, and Mr. James I. Coffey, associated with some of these gentlemen, conceived the idea of a general council of Chippewa Indians. They met at a gathering called by the chiefs or head men of the different tribes and they adopted, if you please, Mr. Chairman, a constitution and by-laws, and I ask permission to have that constitution and those by-laws submitted to your committee, and if you desire they may be printed. I have them here, but I will not stop to read them.

The CHAIRMAN. You can submit them.

Mr. McDONALD. Yes, sir. Now, it was thought that this General Council of Chippewa Indians would be the means through which the Chippewa Indians could work out a great deal of good to themselves, and when I speak the words "Chippewa Indians" I mean, just as I said before, those people who were recognized as Indians and not those people who were recognized principally as white men.

Well, matters went on. To show you how deeply they were taking an interest in their affairs, one of these councils passed a resolution that no Chippewa lands should be sold without reserving the minerals, the same as our State of Minnesota is reserving its minerals. The man who drafted the original Ellsworth bill, H. R. 6461, or H. R. 9924, for some reason or other, Mr. Chairman, omitted to put in there a provision that all those lands should be sold subject to mineral reservations, and while I am touching on that point let me remind you, Mr. Chairman, that a gentleman who was a member of the general council, Mr. Gus H. Beaulieu, in his testimony either before the Graham committee or somewhere else—and it is on record in the Bureau of Indian Affairs—testified that he worked for Mr. Congdon, Mr. C. A. Congdon, of Duluth, in purchasing those Indian lands upon the White Earth Reservation. You can easily

learn from Congressman Carss that Mr. Congdon was at that time a very wealthy mining man of Duluth. It is also a matter of record, which the record should disclose, that Mr. G. Hartley, of Duluth, another mining man, bought lands in there.

Now, time ran on, and because of this proposition, which any politician understands, that a majority of a majority can rule an entire body, although they represent only a minority, that was the situation, and as soon as they found it out the control of the General Council of Chippewa Indians of Minnesota passed into the present hands.

They adopted a constitution, which for completeness is probably a good example to some of us white people. They adopted by-laws. The provision, either of that constitution or by-laws, or perhaps both, was that the meetings in different tribes should be held on a certain day in June, after the middle of June, as I recollect it; that those meetings should elect delegates to attend a general council on the first Tuesday or some day in July following. Those by-laws provided for an order of business, and I have them here. They provided that after the meeting was called together the president—mark you, the by-laws governed the meeting in the different tribes, as I recollect it—that the presiding officer, which in the case of the general council was the president of the general council and in the other tribes was their presiding officer—that he should call the meeting to order and should appoint a committee on credentials.

I am going to pass that. My time is short. But let me say that at that meeting held in White Earth, the one where Mr. Dickens presided without any authority whatever, he had no authority under the constitution and by-laws of this general council that is represented here; he had no right to sit there. They did not follow the proceedings, and what Mr. Broker and these other Indians tell you should have taken place did not take place. A committee on credentials was not appointed, and so there at White Earth, when Mr. Dickens refused to follow the by-laws in reference to the order of business, they left that council room and went into a meeting by themselves. Mr. Caswell was there and Mr. Broker was there, and if I misstate it they may correct me. They went and held a meeting by themselves and elected delegates, and both delegations came to Cass Lake. When they presented themselves at Cass Lake, under the by-laws Mr. Morrison, then president of the general council, should have presided. He did not preside.

Mr. BALINGER. Yes; he did.

Mr. McDONALD. The matter was turned over, as I understand it, by Mr. Morrison to Mr. Dickens.

Mr. MORRISON. Do you make that as a positive statement, that I did that?

Mr. McDONALD. No; not as I understand it.

Mr. MORRISON. I just want to understand it.

Mr. McDONALD. No. Now, this is a fact. There is in the office of the Bureau of Indian Affairs a report of what took place, of all that took place. It is a fact that Mr. Dickens did preside at that meeting when they started in to transact their business. Those gentlemen who had a protesting delegation asked that their rights to sit there, that the question of whether or not the meeting at White Earth was a fair one or not, be passed upon, and they asked that a committee on

credentials should be appointed. It was refused. There was some comment on the question of whether or not the by-laws of the General Council of Chippewas of Minnesota should govern or not, and so the gentlemen who were protesting that the action was absolutely illegal and contrary to the constitution, withdrew, whether or not under the circumstances pointed out by Mr. Broker, I do not know, but they withdrew and held their own council in an adjoining building, I think the armory or the city hall, and they elected officers.

Now, let me go back. In 1915, Mr. Morrison, then acting president of this general council, called what is now known by the Indians as a secret council meeting. Instead of designating the time in June when the councils in the tribes should be held to elect delegates to the council meeting, he called it in February instead of calling it as provided by the constitution and by-laws, and the action of the general council at the previous meeting at Bemidji, July 9. He called it to be held at White Earth, on the White Earth Reservation, June 12. It is true it is claimed that notice of that meeting was published in the Tomahawk, but you have been told that many do not take the Tomahawk or do not read it. It is printed in the English language. It is claimed also that this notice was spread about, but the fact is that it was a meeting held illegally and at the wrong place, some hundred miles away.

Now, at that meeting they passed two infamous resolutions. Gus H. Beaulieu, at that time, I am informed, was a member of the general council executive committee. There was passed a resolution requesting Congress to appropriate to Gus H. Beaulieu for his services and expenses in connection with the Mille Lac litigation, \$2,500 a year for 18½ years, making a total of about \$45,500, and appropriating to Mr. Fairbanks, the gentleman who sits here, naming him, and Wawayakamik and Andrew Sakesik, members of the Mille Lac Tribe, acquaintances of mine, \$3,500 for the same period, making a total, Mr. Chairman, of \$110,500, if my computation is correct.

In addition to that, that secret meeting there, some time ago—and I want to give Mr. Beaulieu credit for action in connection with that, because he was the gentleman who took steps to rescind the matter after the matter became generally known—some time ago in the early morning of one of those nights, I think the night of the 12th, that same body of men, when there were only a few present—some give it at 25 and some 35 out of an entire delegation of 120—passed a resolution providing that there should be created a Chippewa claims commission, and named the men. Mr. Fairbanks was one. Some other gentlemen who are here were on that commission, and the president of the general council. They gave them full power to act in reference to the Chippewa matters, including these matters now before this committee, as I recall it. Not only that, but they appointed Mr. Arthur C. Beaulieu as the attorney in fact and agent for all the Chippewas of Minnesota, to make contracts for them with attorneys and in relation to the affairs of the Chippewa Indians. These gentlemen seemed to realize that when that became known there would be an uprising among the Chippewa Indians, that there would be an uprising among some of the half-breeds, and that thing grew until the meeting in 1917. It is to the credit of Mr. Frank Beaulieu that he, seconded by Mr. Morrison, moved that those proceedings be set aside and annulled.

Mr. BALLINGER. They were?

Mr. McDONALD. Of course they were, because in fact they had no legal existence. Now, you will understand why it was that there grew up two factions.

The CHAIRMAN. You have two minutes left.

Mr. McDONALD. One is the faction that you see represented here, and they were able and willing, and the other is the faction of the real Indians and those people who are opposed to the other crowd. What happened? The General Council of Chippewa Indians, as then constituted, had a legislative committeeman here at Washington, and he found that there was circulating among the Members of this Congress a little pamphlet arguing in favor of making this appropriation of \$110,000 to Gus Beaulieu and Mr. Fairbanks and Andrew Sakesik, and so on, right in the face of the fact that the Court of Claims in the Mille Lac case allowed, I think, \$100,000 to the attorneys for the Indians. Gus Beaulieu had a contract with those attorneys that he should receive one-fifth thereof, \$20,000, for his services in connection with the Mille Lac matter. In addition to that, this general council proposes to have this Congress appropriate \$45,000 more to Mr. Beaulieu.

The CHAIRMAN. Gentlemen, the time for recess has arrived, and if there is no objection we will recess until 10.30 to-morrow morning. At that time we must finish up all of the arguments in the case.

Mr. BALLINGER. Could I make a suggestion? If there is any particular provision in this bill to which any one has an objection, will they not call attention to the provision and the reasons for the objection?

The CHAIRMAN. Nobody has done that yet, so far as I can see.

Mr. McDONALD. Just one matter, Mr. Chairman. I started in to call your attention to this statement—

The CHAIRMAN (interposing). The hearing is now ended for the day. We will meet to-morrow morning at 10.30 o'clock.

Thereupon at 1 o'clock p. m. the committee adjourned until to-morrow, March 16, 1920, at 10.30 o'clock a. m.

WRITTEN STATEMENT BY JAMES J. CAFFEY, OF KANSAS CITY, MO.

KANSAS CITY, Mo., March 2, 1920.

Hon. W. L. CARSS, M. C.,
House of Representatives, Washington, D. C.

DEAR MR. CARSS: Recently I have received information that on March 8th the House Committee on Indian Affairs will consider the bills introduced by Mr. Knutson and Mr. Ellsworth, of Minnesota, for the purpose of winding up, the affairs of the Chippewa Indians of Minnesota, a great body of the Chippewa Indians affected by the proposed legislation are within your constituency and they look to you for the protection of their interests.

I want to state to you on behalf of the Chippewa Indians of Minnesota, for your particular information and which they desire that you submit to the House Committee on Indian Affairs on their behalf, that the proposed legislation has not been submitted to the said Chippewa Indians, and they do not know the provisions contained in said proposed legislation, and that they have not given their sanction to any legislation contained in the proposed bills.

That they are opposed to any modification of the present laws which affect their interests, without first having received their sanction.

The custom which Congress and the Government have always followed, where a complete change of policy affecting the Chippewa interests are in contemplation, is

that the legislation proposed for that purpose shall contain a provision that the consent of each individual adult Indian member of said tribes shall first be obtained before the proposed law shall become valid. In effect the said Indians are required to ratify the proposed law before it becomes effective.

But you will observe if you examine the proposed legislation which is intended to change the entire policy of the Government in the administration of the affairs of the said Chippewa Indians, that only those sections of the bill, which the promoters of the proposed legislation can not derive any immediate personal benefit from, they have provided that those sections shall be submitted to and accepted by the General Council of the Chippewa Indians.

But as to certain sections which contain provisions which they can manipulate to their benefit they have not made such a provision for the Chippewa Indians' ratification, but those provisions become law arbitrarily when enacted.

Without going into details the proposed legislation contains very many iniquitous provisions, and for the particular benefit of those men who are promoting the legislation and their blood relatives.

The promoters of the proposed legislation are first of all, Webster Ballinger, attorney at law, Washington, D. C.; Ben L. Fairbanks; Frank D. Beaulieu; John G. Morrison, jr.; Theodore H. Beaulieu.

In contemplation of law, these men are not Chippewa Indians of Minnesota, and legally they do not belong upon the White Earth Indian Reservation, but through fraud and iniquitous pressure upon rascally Indian agents their names have been stealthily placed upon the annuity rolls of the Mississippi bands of Chippewa Indians who occupy the White Earth Indian Reservation.

For your information, and those who are interested in equity and justice to the Indians, I will quote the law as to the legal status of the men I have named above, as Indians and as members of the Mississippi bands upon the White Earth Indian Reservation.

Treaty entered into between the United States and the Mississippi bands of Chippewa Indians of Minnesota, March 19, 1867 (16 Stat., 719) ratified April 8, 1867. provides in article 4 as follows:

"ART. 4. No part of the annuities provided in this or any former treaty with the Chippewas of the Mississippi bands, shall be paid to any half-breed, or mixed blood, except those who actually live with their people, upon one of the reservations belonging to the Chippewa Indians."

The mixed bloods and half-breeds referred to in that treaty are Benjamin L. Fairbanks and his ancestors, Frank B. Beaulieu and his ancestors, John G. Morrison, jr., and his ancestors, and all of the relatives of those men and their ancestors.

At the date of the treaty above quoted, the Fairbanks and the Morrisons and Beaulieus were not members of the Mississippi bands and were not living upon any of the reservations belonging to the Indians, but a number of them lived at the then frontier village of Crow Wing, Minn., on white man's land, and were absolute strangers to the Mississippi bands of Indians. Their occupation was as saloon keepers and small traders at Crow Wing. They were entirely separate and distinct people from the Indians of the Mississippi bands, and they held themselves out as white people among the whites and as mixed bloods among the Indians. Originally they came from Canada, Michigan, and Wisconsin, to Crow Wing. There they held themselves out to the Indians as mixed bloods and made efforts to have their names placed upon the annuity rolls of the Mississippi bands. Generally the Indians were opposed to adopting them into the tribe because of their vicious habits and their abuse of individuals among the Indians.

Because of the efforts of the Fairbanks, the Beaulieus, and the Morrisons to be placed upon the annuity rolls of the Mississippi bands, to which the Indians were opposed, when the treaty of March 19, 1867, was entered into between the United States and the Mississippi bands of Chippewa Indians, the Chief Hole-in-the-Day insisted that the provision designated as article 4, which I have quoted above, be made a part of the treaty for the protection of the Mississippi bands from the efforts of the Beaulieus, the Fairbanks, and the Morrisons to get on the annuity rolls of the Mississippi bands of Chippewa Indians.

Article 4 of the treaty of March 19, 1867, has never been abrogated either by any act of Congress or by any council of the Indians; article 4 is still a law in the statutes of the United States, having the force of the law made by treaty, and is a statutory prohibition standing against Benjamin L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., from being carried upon the annuity rolls of the Mississippi bands, who now occupy the White Earth Indian Reservation, where these men are now enrolled under conditions of fraud and contrary to the statute above quoted (16 Stat., 719).

This is the status of the men, Benjamin L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., as Indians having any right to participate in the affairs of the Indians.

The Indians of the White Earth Indian Reservation have protested every year to the officials of the Indian Department against the retention of these men upon the annuity rolls of the White Earth Reservation, because they are undesirable and are not legal members of the tribe, and because of the statute prohibiting them from participating in the annuities of said Indians.

The Indian Office has been extremely derelict in enforcing the law of the United States provided for the protection of the Indians; it is said, for political reasons.

It is public property among the Indians in Minnesota, that the political reasons are that Benj. L. Fairbanks and Gus H. Beaulieu were the agents and instrumental by the Nichols Chisholm Lumber Co. of Becker County, Minn., in taking and removing many hundred million feet of Pine timber off the White Earth Indian Reservation contrary to law as provided in the act of January 14, 1889. Under the act of January 14, 1889, that vast quantity of pine timber should have been sold at public sale and the proceeds placed in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota as a common fund.

Instead of disposing of it in accordance with the law, agreed upon under a treaty between the United States and the Chippewa Indians of Minnesota, these same so-called mixed bloods, by representing to Congress that they were entitled to additional allotments of land as Indians belonging upon the White Earth Reservation, prevailed upon Congress to enact legislation providing for additional allotments of land to Indians upon the White Earth Reservation, which under existing law should be agricultural land.

Instead of allotting agricultural land under existing law, these men with the political pull controlled by the Nichols Chisholm Lumber Co. manipulated the Indian agent at White Earth to negligently allot to these same mixed bloods and their relatives and close friends about all of the valuable pine timber lands upon the White Earth Indian Reservation, contrary to the provisions affecting this identical timber land, under the act of January 14, 1889. The value of the timber taken from these lands in allotments to individuals which are these so-called mixed bloods ranged from \$10,000 to \$25,000 to each individual; this includes Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., who are legally prohibited from participating in the benefits of the property of the Mississippi bands of Chippewa Indians, who occupy the White Earth Reservation.

A few years ago upon the complaint of the Indians of the White Earth Reservation to the honorable Commissioner of Indian Affairs that the Fairbanks, Beaulieus, and Morrisons were on the annuity rolls illegally, the Interior Department sent an inspector to the White Earth Reservation to investigate the status of the men complained of; the inspector, Mr. Thomas G. Shearman, made his report to the department, and upon the statement of facts submitted by him he recommended that these men be stricken from the annuity rolls of the White Earth Agency. Accordingly the names of these men were suspended from the rolls, and at this point of the affair I am reliably informed that the Nichols Chisholm Lumber Co. seeing that their interests were being threatened if the names of the Ben Fairbanks and Gus H. Beaulieu and the others who unlawfully sold the pine timber belonging to the Chippewa Indians of the State of Minnesota in common, which includes Ben L. Fairbanks, Frank D. Beaulieu, John G. Morrison, jr., and the others who were given allotments on the pine lands under the additional allotment act, were suspended from the rolls and entirely eliminated from said rolls, that action would be taken by the Government to recover the value of the pine so taken, and the said lumber company would be liable for the value of the timber so taken. To protect their interests, as I have been informed, Mr. T. Shevlin made a trip to Washington and had a consultation with the honorable Secretary of the Interior, during the very critical time the elimination of the names of Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., from the rolls, were under active consideration by the Interior Department. Shortly after the visit of Mr. Shevlin to the honorable Secretary of the Interior, the department instructed the Indian Office to resume the payment to the suspendees the annuities as theretofore.

These men who participated in pulling off this gigantic fraud and received the benefits of \$10,000 to \$25,000 each from it, Benj. L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., are now before Congress with another bill proposing legislation opening another opportunity for them for another gigantic fraud. These men have apparently used the Congress of the United States for the past 18 or 20 years as pawns are used by a chess player. In other words, they have used Congress to attain a position from which they are enabled to rob and plunder the Chippewa Indians

of Minnesota. We have made an appeal to many Member of Congress for protection from the iniquities of these men. When will Congress awaken to the fact that they are being used as mere pawns by these men and create for them further opportunities for plundering the Chippewas of Minnesota?

In the year 1906 a provision was inserted in the Indian appropriation bill at the instance of these men, providing for the removal of the restrictions upon the alienation of the allotments of mixed-blood Indians upon the White Earth Indian Reservation. To accomplish that result, they represented to Congress that the mixed-blood Indians on the White Earth Indian Reservation were competent to manage their affairs judiciously, that the restrictions then upon the alienation of their allotments were hampering the progress of the individual mixed blood. Without adequate information as to the truth of the representations of these men, Congress very unwisely, as many of the Members of Congress have since admitted, enacted the law sought by these men, which removed the restrictions from the alienation of the allotments of the mixed-blood Indians on the White Earth Reservation.

The immediate result of the enactment of that law was the sale and disposal of the allotments of about 90 per cent of the mixed bloods affected by that act for sums ranging from one-fourth to one-half the value of their lands, which was soon squandered and wasted, leaving them homeless and without land.

Benjamin Fairbanks, Gus H. Beaulieu, John W. Carl, Theodore H. Beaulieu, and others of their gang, immediately took advantage of the incompetency of those mixed bloods whom they represented to Congress were competent, and commercialized in the allotments of those mixed bloods for personal profit, as they intended to do and for which they procured the law:

Under that transaction Ben L. Fairbanks is said to have cleared as profit about \$400,000, Gus H. Beaulieu about \$300,000, John W. Carl about \$200,000.

In his report submitted to the Indian Office of an investigation he was detailed to make covering the Indian situation in Minnesota in the year 1918, Mr. E. B. Linnen, special inspector of the Interior Department, stated that Benjamin L. Fairbanks, John W. Carl, and Theodore H. Beaulieu had actually swindled a large number of the Indians and mined bloods from whom they procured land.

Among the white population in Minnesota, wherever the character of the work of Ben Fairbanks, John G. Morrison, jr., and Frank D. Beaulieu are known in relation to procuring legislation affecting Indian matters they receive no support and are turned down cold.

It happened to be in the city of Bemidji, Minn., on the 2d day of last October, where I had business with a citizen of that city. I was informed by the gentleman that the Commercial Club of the city of Bemidji, Minn., was then in session, and was invited by him to attend that meeting, which I did. When we arrived at the club rooms the meeting was then in session and Frank D. Beaulieu was then addressing the meeting in relation to the legislation affecting the Indians of Minnesota, and more particularly the proposed legislation embodied in the bills introduced by Mr. Knutson and Mr. Ellsworth of Minnesota, which is up for consideration on March 8 before the House Committee on Indian Affairs. After hearing Frank Beaulieu's statements and explanations covering the entire matter, a few questions were asked him by members of the club. The club proposed a vote upon his proposition.

Frank Beaulieu then saw his scheme had been laid bare by a question of one of the members of the club, and Beaulieu requested the club not to take a vote on his proposition but to drop it. He stated to the club that if it was rejected some person would undertake to make capital of it; but the club disregarded his request and took a vote upon it. His proposition was rejected by a the entire club and it did not receive the support even of a single vote.

The Commercial Club of the city of Bemidji, Minn., is composed of live business men, who have lived many years in the Indian country, the country occupied by the Chippewa Indians of Minnesota. I know from personal observation that certain men members of that club have made a study of different matters in relation to the Chippewa Indians in Minnesota, and they know more about the application of practical business matters to the Indian economic situation in Minnesota, for the real benefit for the Indian, and know as well those matters which are disadvantageous to the Indians than Frank D. Beaulieu or Ben L. Fairbanks and John G. Morrison, jr., including all of the knowledge possessed by Webster Ballinger in relation to the Chippewa situation in Minnesota.

Because the members of that Commercial Club are honest, so far as their interests in Chippewa matters are concerned, and they have no axes to grind, and they are not out to swindle the Indians, and they do not propose to lend themselves to any gang of swindlers for that purpose.

That is the reason the proposed legislation to be considered by the House Committee on Indian Affairs, on March 8, was turned down and summarily rejected by that Commercial Club, as proposed and advocated by Frank D. Beaulieu, Ben L. Fairbanks, and John G. Morrison, jr.

It may interest Congress to note that the Indian Office has, contrary to the best interests of the Chippewa Indians of Minnesota, projected itself into the local affairs of the Chippewa Indians of Minnesota by directing its local Indian agent of the White Earth Reservation, Mr. W. F. Dickens, to act as the chairman of the local council on the White Earth Reservation in June, 1919, to the exclusion of the regularly elected chairman by the Indians, which enabled the Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., gangsters to make a show of control, with the use of the Government police and the sheriff of Mahnom County, Minn., contrary to the laws of the said local council, and then followed up their object of forcing the matter of seating John G. Morrison, jr., as the president of the general council. The Indian Office instructed Mr. Dickens to act as chairman at the opening of the general council, at Cass Lake last July, which was objected to by the Indians entirely, because such an act was contrary to the constitution of the general council, which provides that the president shall preside. Under the instructions had by Mr. Dickens from the Indian Office, he employed the sheriff and four or five deputies of Cass County, Minn., and placed these officers in front of him where the Indians stood to address the chair or the council. This was done to intimidate the Indians and to suppress them should they undertake to have the regular order of procedure of the general council enforced. This was done to further the ends of Ben L. Fairbanks, Frank D. Beaulieu, John G. Morrison, jr. The Indians would not submit to such high-handed work, so they separated themselves from the Indian Office gang and held the regular general council of the Chippewa Indians of Minnesota.

The Indian Office general council was furnished with resolutions prepared beforehand by the attorney, Webster Ballinger, from Washington, D. C., who was on hand for the prearranged occasion, and that is the stuff they now have before Congress for consideration to be enacted into law.

As early as the Indian Office received the report of Mr. Dickens, the usurper, of their transaction in that affair, the Indian Office, very precipitately sent out notices that it had recognized Mr. John G. Morrison, jr., as the duly elected president of the general council, when the fact was that the Indian Office council had but one Indian attending it, and that was Capt. John Smith, who has affiliated with the Beaulieus for years. The others who were at the Indian Office council are those who are in the same status as Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., prohibited from participating in the annuities of the Mississippi bands of Chippewa Indians, as provided in article 4 of the treaty of March 19, 1867. Webster Ballinger was at the Indian Office council officiously arranging and promoting the adoption of the resolutions which purport the approval by the Indians of the legislation now before Congress promoted by Ballinger, Fairbanks, Beaulieu, and John G. Morrison, jr.

Mr. W. F. Dickens domineered the proceedings of the Indian Office council as the representative of the Indian Office under his instructions to take charge of the procedure. Kindly submit this matter to the House Committee on Indian Affairs for its information upon the matter of the proposed legislation referred to.

Respectfully, yours,

JAMES I. CAFFEY,
Representative of the Chippewa General Council (Inc.).

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 16, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

Mr. SNYDER. Gentlemen, we will resume the hearing with Mr. McDonald as the witness, and we have an agreement that he shall have 10 minutes additional, if there be no objection.

STATEMENT OF MR. E. E. McDONALD, OF BEAUMONT, MINN., REPRESENTING FULL-BLOOD CHIPPEWA INDIANS—Resumed.

Mr. McDONALD. Touching upon the question, gentlemen, of expenditures of Indian funds, I desire to have incorporated as part of my remarks an itemized statement to be furnished by your committee relating to the items of \$2,344.64 to John W. Carl, \$1,566.75 paid to Henry W. Warren, \$720.10 paid to B. L. Fairbanks, \$1,684.25 paid to Webster Ballinger, as appears in this statement, which is marked "Exhibit A," which I desire to have made and printed as part of my remarks, if the committee please.

The CHAIRMAN. It is so ordered.

(The paper referred to follows:)

EXHIBIT A.

Amounts expended from the appropriation of \$10,000, act of May 25, 1918 (Public, No. 159), for council and delegation of Chippewa Indians.

Claim.	Date, 1918.	Name.	Amount.
307800	Jan. 28	Henry Warren	\$276.25
307801	.....do.	John W. Carl	585.40
308502	July 3	B. L. Fairbanks	370.30
311282	June 14	Frank D. Beaulieu	560.51
311150	.....do.	Henry Warren	793.75
311151	.....do.	John W. Carl	1,054.00
311152	.....do.	.....do.	419.52
311153	.....do.	Henry W. Warren	241.77
308459	June 21	John G. Morrison, Jr.	152.13
308460	.....do.	B. L. Fairbanks	349.74
311476	June 27	Webster Ballinger	1,684.25
315931	Jan. 3, 1919	Henry Warren	254.95
315931	.....do.	John W. Carl	285.92
			7,028.36

SUMMARY.

John W. Carl	\$2,344.64
Henry W. Warren	1,566.75
B. L. Fairbanks	720.10
Frank D. Beaulieu	560.51
John G. Morrison	152.13
Webster Ballinger	1,684.25
	7,028.36

Mr. McDONALD. As I understand it, the bureau will furnish the detailed statement of these items that I have referred to and checked, and that detailed statement will be made part of my remarks?

The CHAIRMAN. It is so ordered.

(The paper referred to follows:)

Regarding the statement submitted by Attorney McDonald as to expenditures made from the tribal funds of the Chippewa Indians of Minnesota, appropriated by the act of May 25, 1918, (40 Stat. L., 572), the sum of \$2,344.64 shown to have been paid or expended on account of John W. Carl, a member of the Chippewa Legislative Committee, represents per diem, traveling expenses, board and lodging of Mr. Carl and for stenographic service employed at his request. The amounts actually expended from the above appropriation by or on account of Mr. Carl were as follows:

Per diem	\$1,860.00
Traveling expenses	165.40
Stenographic services	54.00
Board and lodging	1,051.09
Total	\$3,130.49

The amount shown to have been expended on account of Henry W. Warren, Chippewa delegate, included the following items:

Per diem.....	\$888. 00
Traveling expenses, etc.....	886. 73
Total.....	\$1, 566. 73

The item of \$720. 10 shown to have been expended on account of B. F. Fairbanks, included per diem and traveling expenses. The total actual expenditures were as follows:

Per diem.....	\$899. 84
Traveling expenses.....	310. 81
Total.....	\$1, 210. 65

The sum of \$1, 684. 25 expended on account of Webster Ballinger, Chippewa attorney, included \$1, 500 for legal services and \$184.25 for stenographic services, etc. The total amount actually expended from the above appropriation on account of Mr. Ballinger included \$2, 500 for legal services and \$184.25 for stenographic services, etc.

Mr. McDONALD. Something has been said, gentlemen, with reference to the frauds in cutting pine, and the conclusion may be drawn from the statement that the general council was responsible for the adoption of the plan of stealing.

Mr. BALLINGER. There was no claim of that kind.

Mr. McDONALD. Of stealing the logs?

The CHAIRMAN. Just a moment—do you want that statement of Mr. Ballinger's to go in at that point?

Mr. McDONALD. It may. I have no objection to it. I so understood the proposition. But so that your committee may be fully advised on that subject I will call your attention to a portion of section 5 of the act of June 27, 1902. I have in my hands—it is from my own library, so I can not give it to you—laws and treaties by Kappler, vol. 1, marked "Laws, second edition." Your committee will have access to it.

The CHAIRMAN. What year is that?

Mr. McDONALD. It seems to have been printed by the Government Printing Office in 1904. On pages 759 and 740 Congress has definitely and in detail directed the manner in which all pine shall be sold.

Calling your attention now to this same subject of fraud 'I read from a portion of the report of the Subcommittee of the Committee on Expenditures in the Interior Department, which bears date February 2, 1912, and this part is marked "17, page 946"; if I am correct. At that time, Mr. Chairman and gentlemen of the committee, it was proposed to dispose of some of the Indian pines and the advertisement, as I recollect it—or as I am advised—provided that the timber should be sold and payment made therefor according to what we call bank scale, as provided in this act—or similarly. Now there was opposition made to that plan and the opposition came from Mr. Beaulieu—not Mr. Gus Beaulieu, so that I may not confuse—and Mr. Ben L. Fairbanks, and on these two pages, 946 and 947 the matter discussed in Mr. Gus Beaulieu's testimony, as I understood it, was given under oath, and you will learn from that that they did not wish the timber sold and paid for according to bank scale, preferring the other method of paying for it by estimate or in some other way, contract, lump price or something, and these two gentlemen, as I recollect it, went to St. Paul and met Senator Clapp, and upon their representa-

tions that that manner of selling timber according to bank scale would work an injustice upon the Indians, some steps were taken whereby Senator Clapp used his influence on the Secretary of the Interior and the bids were held up, and I do not know, although it is all disclosed in this proposition—

The CHAIRMAN (interposing). Will you explain as concisely as possible what the term "bank scale" means?

Mr. McDONALD. I think I can best do that by reading this statute. It is covered by a statute, and I will read it hurriedly. This relates to the sale and is an amendment, if the committee please, to the act approved January 14, 1889. That is the Nelson Act:

Before being removed from the tract from which they are cut, all logs cut hereunder shall be stamped and bark marked—that is, stamped on the end with a big hammer which drives the fiber in and makes an indentation bearing the mark they use as that mark—shall be stamped and bark marked—which is done by an ax cutting whatever mark upon the outside they want—bark marked by the logger and numbered—that is, each log is numbered—and scaled by competent and experienced scalers to be appointed by the Secretary of the Interior and paid such reasonable salaries as may be fixed by him. Such scalers shall keep in suitable books for reference a record of the marks, also a complete list of the number of hauled logs with the scale of each log set opposite its number; that is, log No. 1 would be white pine, 16 feet long 8 inches in diameter at the top and contain 32 feet of timber. That is put in a book. Also a complete list and number of all logs with the sale of each log set opposite its number. said scale books to be open to the inspection of the check scaler or to any authorized Government representative at all times, and said logs shall be landed separately from all other logs, and the title to said logs shall remain in the United States for the benefit of the Indians, and said logs shall not be removed from the place of landing until the purchase price agreed upon shall be fully paid to such officer of the Indian department as shall be designated by the Secretary of the Interior to account for and receive the same; and the Secretary of the Interior may, at the request of the chiefs of the said bands or tribes of Chippewa Indians of the State of Minnesota interested in the said timber sale, appoint check scalers to verify and inspect the work of the Government scalers, the said check scalers to be designated by the said chiefs and paid out of the funds of the Indians such reasonable compensation as may be fixed by the Secretary of the Interior.

The CHAIRMAN. That is sufficient.

Mr. McDONALD. Now, passing on hurriedly, touching this question of frauds upon the White Earth Indians, the testimony taken in the Graham investigation disclosed that after the adoption of the Clapp amendment there was great activity among those who were seeking to secure these lands, and there was a lumber company—the record discloses the name—the Nichols-Chisholm Lumber Co., operating in that locality, with its mill—I don't know where the mill was located. It appears from this testimony that Mr. Fairbanks—Benjamin L. Fairbanks—now a member of this general council and very active in this proposition, was—this is the testimony of Gus H. Beaulieu, who was then also connected with this council—they were then in the employ, each of them, of the Nichols-Chisholm Lumber Co., receiving \$100 a month added time when the Indians—when I speak of the Indians, I speak of these people that you listened to here—the Indians supposed that these men were acting in their interest and giving them advice at a time when they were drawing \$100 a month salary from the Nichols-Chisholm Lumber Co.

The CHAIRMAN. The Chair is sorry to state to the gentleman that his time has expired, and he will be permitted to revise and extend his remarks under the suggestion made yesterday.

Mr. McDONALD. And if the chairman pleases, as I am obliged to leave for home to-night, and if I can have a few days to do that!

The CHAIRMAN. You can have 10 days. Is that enough?

Mr. McDONALD. Yes; thank you.

(Mr. McDonald's written statement follows:)

At the time of taking a recess interrupting my statements, I had referred to the fact that at a secret meeting of the so-called general council of Chippewa Indians of Minnesota held at White Earth June 12-14, 1915, a resolution was passed urging Congress to appropriate from the funds belonging to the Chippewa Indians of Minnesota about \$110,000, of which about \$45,000 was to go to the benefit of Gus Beaulieu and the remainder to Benjamin L. Fairbanks and others. When this information came to the attention of James I. Coffey, then a legislative committeeman of that general council, he immediately addressed a communication to a number of the headmen and representatives of the general council calling attention to the fact that a bill carrying such appropriation of Indian funds had been presented to Congressman Lindberg, of Minnesota and that there was being circulated amongst the members of Congress a written argument in the form of a pamphlet favoring the passage of such legislation. The Indians became very much excited and expressed their greatest opposition to this appropriation of the funds of the Chippewa Indians of Minnesota. This opposition grew until a meeting was called of all the headmen of tribes or bands of Chippewa Indians of Minnesota as well as many representatives of the said general council.

That written notice of the charges preferred against Mr. Morrison, Fairbanks, and others was duly given to each of them, but that none of them appeared at said council meeting.

That this meeting was held at the Indian Village of Ball Club, Itasca County, Minn., on the 25th day of April, 1918. It was called for the purpose of discussing and investigating the alleged unauthorized acts of John G. Morrison, jr., president of the General Council of Chippewa Indians of Minnesota, and the other officers that were in any manner connected with the attempt to rob the Indian funds. There were present at this meeting a very large representation of Indians. Each reservation was represented with the exception of Grand Portage and Nett Lake, and said meeting was duly organized, Edward M. Wilson being elected chairman of the council and James A. Wakonabo secretary. That the general council unanimously adopted the following resolutions:

RESOLUTION 1.

Whereas this council represents the majority of the Chippewa Indians of Minnesota, and therefore it is hereby declared to be the general council of all the Chippewas of Minnesota.

RESOLUTION 2.

Whereas certain charges have been filed by James I. Coffey, at this general council of all Chippewas of Minnesota, against John G. Morrison, jr., president of the general council, and John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow, as violating the constitution and by-laws of the General Council of the Chippewa Indians of Minnesota, and the resolutions of said general council, in promoting legislation, as attorneys and legislative committeemen of said Chippewa Indians of Minnesota, which was calculated to the injury and loss of said Chippewa Indians of Minnesota, as evidenced in the resolutions of said general council and the bills H. R. 8841, H. R. 8696, S. 3116, S. 3654; and

Whereas said charges are proven to be true by said resolutions, and said bills introduced in the Congress of the United States; now, therefore, it is hereby

Resolved, That said charges are accepted as true in their entirety, and said John G. Morrison, jr., John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow, are guilty of the acts charged. And be it further

Resolved, That John G. Morrison, jr., John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow be, and they are hereby, removed from the offices they are now holding in the general council of the Chippewa Indians of Minnesota, and that said officers and men herein above named shall hereafter and forever be barred from holding seats and voting in the general council of Chippewa Indians of Minnesota.

RESOLUTION 3.

Whereas Paul H. Beaulieu is found to be in sympathy with the John G. Morrison, jr., gang, and therefore is hereby removed from the office or secretary of the general council of Chippewa Indians of Minnesota.

RESOLUTION 4.

Whereas the so-called claims commission was created and organized on the 12th day of June, 1915, at White Earth, Minn., and was created under fraudulent condition for a fraudulent purpose, and it is therefore declared to be fraudulent and is therefore declared to be void.

RESOLUTION 5.

Whereas it is hereby resolved that James I. Coffey is hereby chosen and elected a president of the general council of the Chippewa Indians of Minnesota in the place of John G. Morrison, jr., and be it further resolved that Benjamin Caswell is hereby chosen and duly elected as vice president of said general council; and be it further Resolved, That Chas. Bango is hereby chosen and elected as secretary of said general council, providing he is in position to accept and devote his time to the position.

RESOLUTION 6.

Whereas, Be it resolved by the general council of all the Chippewa Indians of Minnesota, held at Ball Club, Minn., on the 25th day of April, 1918, that two supervisors from Washington, D. C., be present at the next general council of all the Chippewa Indians of Minnesota, to be held at Bemidji, Minn., in July, 1918. One shall be selected by the Commissioner of Indian Affairs, and the other one shall be selected by the Board of Indian Commissioners.

On motion duly made and seconded and carried by unanimous vote of all delegates present, that the proceedings of this general council of all Chippewas of Minnesota be printed and copies furnished to all Congressmen, Senators, and the Department of the Interior.

On motion duly made and seconded, and carried by unanimous vote of all delegates (standing), an adjournment was taken and the council was closed by the chairman.

That said John G. Morrison, jr., as president, and Paul H. Beaulieu were advised of the action of said council in removing them from said office.

That thereafter, and on the 14th day of May, 1918, there was issued by James I. Coffey, president of the newly organized general council of Chippewa Indians of Minnesota, a call or notice of the sixth annual meeting of the general council of Chippewa Indians of Minnesota to be held at Bemidji beginning on the 9th day of July, 1918. That this notice designated the number of delegates that should be elected from each of the reservations; that thereafter elections were held on each reservation on the first Tuesday of June, 1918, at which time delegates were elected to attend said general council; that John G. Morrison, jr., persisted in continuing to act as president of the general council of Chippewa Indians of Minnesota and disregarded the action of the Chippewa Indians of Minnesota, represented by their chiefs and head men, and issued a notice of election of delegates and holding of the council at the same time and place as that named in the notices or calls issued by James I. Coffey; that said James I. Coffey, acting as president of said general council of Chippewa Indians of Minnesota, pursuant to the action taken at Ball Club provided the city hall of the city of Bemidji as the place of assembly for the delegates elected pursuant to his call; that previous to 9 a. m. of the 9th day of July, 1918, the delegates so elected pursuant to Mr. Coffey's call appeared at the city hall and called on the custodian for the key and were advised that the key, three days before, had been delivered to John G. Morrison, jr., but that they would locate him and have the hall opened up.

That said Coffey and delegates remained until 10.30 o'clock; that said city hall was not opened; that said John G. Morrison, jr., did not appear, and it is believed by the Indians that John G. Morrison, jr., had surreptitiously gotten the key to the building and prevented meeting of the delegates that were in attendance pursuant to the call of Mr. James I. Coffey; that after waiting from 9 a. m. until 10.30 a. m. the delegates adjourned from the city hall to the Elko Theater, in the city of Bemidji, and there held their general council of Chippewa Indians of Minnesota; that said council meeting was organized by electing a presiding officer and secretary, and such proceedings were had that a resolution was adopted confirming in every particular the action of the meeting previously held at Ball Club April 25, 1918.

That at said meeting there was also unanimously passed resolution No. 8, as follows: "Be it resolved, That the legislative committee obtain an act by the United States Congress for the appropriation of \$10,000 for the expenses of the delegates of the general council and for the expenses and compensation of the legislative committee for the year ending June 30, 1919. Said fund to be available until exhausted."

That there were present at the said meeting of the general council of Chippewa Indians of Minnesota 67 delegates from White Earth, 2 from Fond du Lac, 12 from

Winnibegoshish, 13 from Leech Lake, 4 from Cass Lake, 12 from White Oak Point, and 5 from Bois Fort or Nett Lake, or in all, 115 delegates. That said delegates of said general council were unanimous in their opposition to the efforts of the said John G. Morrison, jr., Ben L. Fairbanks, Paul H. Beaulieu, and others, to have them recognized as the representatives of the General Council of Chippewa Indians of Minnesota.

That after the said delegation had left the front of the city hall to go to the Elko Theater, John G. Morrison, jr., and others acting with him appeared at the city hall and held, what they claimed to be, a meeting of the general council of Chippewa Indians of Minnesota and pretended to elect officers and appoint committeemen the same as had been done by the other meeting held at the Elko Theater. That the general council held in the Elko Theater became known and is now usually referred to as Council of Chippewa Indians and the council meeting held at the city hall and presided over by John G. Morrison, jr., is usually referred to by the Chippewa Indian, as the council of mixed or half breeds. That in May, 1919, James I. Coffey, as president of the general council of Chippewa Indians, usually referred to as the council of Chippewa Indians, issued a notice or call for election of delegates and also of the annual general councils of Indians. That thereafter and on or about the 2d day of June, 1919, there was suggested by the Commissioner of Indian Affairs the advisibility of taking some steps to illiminate the factional controversy between the so-called Chippewa Indians represented by James I. Coffey as their president and the so-called mixed bloods or half breeds represented by John G. Morrison, jr., as their presidents and it was suggested that the next general council should be held at Cass Lake, Minn. That while James I. Coffey, president of the council of Chippewa Indians, knew that such would be in violation of the laws of his organization, but yielded to the suggestion of the commissioner and thereafter there was issued an order or call, under the direction of the Commissioner of Indian Affairs, for a meeting to be held at Cass Lake in which it was suggested each faction should participate. That in reference to the meeting held on White Earth Reservation to elect delegates to such general council the rules and regulations of the general council of Chippewa Indians of Minnesota were not observed or followed in any particular. Nor was it held according to the customs of the Chippewa Indians upon their reservation.

That said meeting was packed and absolutely under control and domination of Ben L. Fairbanks and his associates and was not a fair election and the delegates selected were not the choice of the Chippewa Indians of that reservation. That said packing of said meeting and the control and domination thereof was protested against as being illegal, but without any avail or effect and thereupon 262 Indians arose in a body and left the meeting place and organized another meeting and selected 62 delegates to attend the meeting called for Cass Lake. That thereafter and on the 9th day of July, 1919, the delegates assembled at Cass Lake, were called to order by Walter F. Dickens, who had been designated by the Indian commissioner to conduct such meeting. That said action was in violation of the constitution, by-laws, and custom of the general council of Chippewa Indians of Minnesota. That the said Walter F. Dickens, acting as representative of the Indian commissioner, assumed unto himself the right to determine who were the qualified delegates from the different reservations and announced that fact and the result of his determination. That there were then present two delegations from White Earth each contending to be the duly elected and qualified delegates to that meeting. Delegates sitting in that meeting uncontested insisted upon the appointment of a committee on credentials and that the question of which of the contesting delegations from White Earth should be allowed to set at this meeting be submitted to it. This was in strict conformity with the by-laws adopted by the general council and recognized by the organization and Mr. Dickens presiding, refused to recognize the uncontested delegations and declared them out of order and refused to allow them to speak and announced that the delegates from White Earth represented by the Beaulieu and Fairbanks faction would be seated and ordered the rest to leave the room. Thereupon all of the contesting delegates as well as delegates from other reservations withdrew from that meeting place and proceeded to the city hall, adjoining there, and they organized with a chairman, secretary, and interpreter. That there were then present in the said meeting, at least 97 delegates that had withdrawn from the other meeting. That they proceeded to elect their officers, to pass resolutions and transact such business as pertained to the affairs of Chippewa Indians of Minnesota. That Benjamin Caswell, the gentleman who has appeared before your council for the Chippewa Indians of Minnesota, as its president, John Broker of White Earth Reservation as vice president were elected as was also an executive committee as provided for by its constitution and that this organization now represents over 80 per cent of the Chippewa Indians of Minnesota, and about 10 to 15 per cent of the so-called mixed bloods or half breeds. Your committee will recall that Mr. Frank H. Beaulieu in his statement to your committee the

other day said that when he was told by Mr. Dickens of the program of holding a joint meeting, that Dickens stated to him that the mixed bloods ought to be able to overpower the Chippewa Indians by marshaling a sufficient number of their friends. What followed this suggestion was in keeping with the political tricks of Tammany Hall, Chicago or St. Paul.

That at the opening of this hearing it was represented by Mr. Ballinger that he spoke for all of the Indians of Minnesota. This statement was made in the presence and hearing of Mr. B. L. Fairbanks and others supporting Mr. Ballinger. We know that Mr. Fairbanks, Mr. Morrison, Mr. Beaulieu, and others supporting Mr. Ballinger, and we believe that Mr. Ballinger well knew that on the 13th day of July, 1918, the delegates from the Red Lake Agency consisting of Nathan J. Head, who has appeared before your committee, Peter Sitting, John English, Joseph C. Roy, Peter Graves, who has also appeared before you, Pay she ge shig, Ah je dum o, Joseph Jourdain. O dah waunce, No din, and Kay gway dub e tung withdrew from said council then being held at Bemidji and addressed to them this communication:

RED LAKE INDIAN RESERVATION,
Red Lake, Minn., July 13, 1918.

TO the GENERAL COUNCIL OF MINNESOTA,
Chippewas in session, Bemidji, Minn.

LADIES AND GENTLEMEN: This communication to your council now in session in the city of Bemidji, Minn., is to advise your council that the Red Lake Band of Chippewa Indians of the State of Minnesota, through their delegates of whom have signed this notice, that they have decided to sever their relations to your council and do not further recognize your said council as a medium for the transaction of their tribal matters and affairs before the Indian Department and the Congress of the United States. They without doubt having more confidence for justice and fair play from the Government than they would expect from your council, which is controlled by men who are fully competent as white men, and who seem to ignore the real conditions of lesser competent Indians of the different bands of the Minnesota Chippewas, and who have assumed to take advantage of the Red Lake Band by attempting to have Congress enact laws inconsistent to present laws enjoyed by the Red Lake Band. We, the undersigned, therefore, without any regret whatsoever for ourselves and in behalf of the Red Lake Band, have caused this to be a matter of written record for your information and that of the protector and refuge of the Red Lake Indians, the United States Government.

That the said Fairbanks and his associates and Mr. Ballinger well knew that on the 18th day of July, 1918, that there was held on the Red Lake Reservation a general council of Indians of the Red Lake band to consider matters involved and the action of the said John G. Morrison, jr., Fairbanks, and Beaulieu, and the withdrawal of that delegation of the general council of Chippewa Indians of Minnesota. That notwithstanding their knowledge of said action said John G. Morrison, jr., as president, Gus Beaulieu, as secretary, Ben Fairbanks, and others as other officers, and the said Webster Ballinger, have insisted that they are representatives of all the Chippewa Indians of Minnesota. That it must have occurred to your committee that these representations were made for the purpose of misleading it. That action is now pending in the district court for Itasca County, State of Minnesota, brought by John G. Morrison, jr., to determine whether the organization of which he claims to be the president or the organization of which Mr. Benjamin Caswell claims to be president shall be permitted to use the name of General Council of Chippewa Indians of Minnesota. That the Caswell organization is duly incorporated.

That in said action an answer was interposed on the 20th day of December, 1919, setting up all the facts relating to the organization of the general council of Chippewa Indians of Minnesota, of which Mr. Benjamin Caswell is president. That no reply has been served to their answer and all allegations remain admitted.

That the committee reprint of H. R. 12103, as now converted in the two bills, H. R. 12972 and H. R. 12973, are objectionable amongst other things as follows: Section 1 of H. R. 12973 is objectionable for the reason that it provides for the appointment of a commission, one of whom will be named by the so-called general council of Chippewa Indians of Minnesota. This bill was drafted by Mr. Ballinger and his associates, and they intend that their general council of Chippewa Indians of Minnesota shall be thus recognized and that they shall appoint one commissioner and that the general council of Chippewa Indians of Minnesota (Inc.), who represent more than one-half of the whole Indian population, shall have no representation. Relating to the appointment of that commission there are now from 200 to 500 persons seeking to be placed upon the rolls of the Chippewa Indians of Minnesota; many of these are not entitled to such enrollment. We charge the fact to be that the so-called Morrison general council will appoint members upon the enrollment committee favorable to

placing upon the rolls persons who are not entitled to be placed there and that such conduct is part of their present scheme and motive of their efforts, and it is in keeping with the manner in which the mixed bloods overflowed the White Earth Reservation and made possible the great Indian frauds there. Practically all of the 1,400 Indians on the Red Lake Reservation are absolutely against the Morrison, Fairbanks, and Beaulieu factions having anything to do with naming a member of the enrollment commission provided for in section 1.

Section 1 is also objectionable for the reason that it recognizes blood status as basis of classification as competent or incompetent mixed persons. The Chippewa Indians believe that there are many incompetent mixed bloods who should not be on the rolls of competents, and that they believe that there are some full-bloods that should be on the rolls of competents. They believe that the classification of competents and incompetents should not be based upon blood status, but should be based upon education, knowledge, judgment, competency, fitness, and environments. The Chippewa Indians fully believe that if section 1 is enacted into a law frauds and sharp practices will result in the loss to the Indians of three-fourths of the property that may be distributed to the Indians or mixed bloods under this section 1. The Morrison, Fairbanks, and Beaulieu faction have held out to the Indians that if this bill becomes a law they will receive large quantities of money. As the old Indian from Leech Lake who appeared before your commission was about to take the train at Federal Dam to come to Washington, a relative of Ben L. Fairbanks accosted him and urged him to support this legislation, for the reason that he would get a large amount of money. This may influence some of the Indians. Many of them understand, however, that getting money and keeping it are two different things. Instead of passing section 1 Congress should pass legislation providing for the purging of the present rolls of these illegal names thereon. It may be contended that the matter has been settled. We do not so understand either the decision of the Secretary of the Interior or the decision of the Court of Claims referred to by the council for the Morrison faction.

Section 2 is objectionable, among other things, for the reason that there are many Indians allotted in the neighborhood of the lands set apart as forest reserves, such Indians receiving an allotment of about 80 acres. The White Earth Indians receive allotments of 160 acres. It is proposed to give Red Lake Indians allotments of 160 acres. It is only fair to the Indian living in and adjoining to the forestry lands that if these lands are restored to the Indians those living in that locality who have received but 80 acres should be permitted to take of these lands an additional 80 allotment. This section of this bill would commit an outrage upon the Indian so situated. This is also objectionable for the reason that it recognizes the mixed bloods or half-breeds general council of Indians and permits it to designate appraisers to appraise lands that are to be sold which ought to be allotted to the neighboring Chippewas. This section is also objectionable for the reason that the terms are such as to invite speculators instead of actual settlers. The State of Minnesota sells adjoining lands on at least 20 years' time, with interest at 5 per cent or less, and the lumber companies sell their lands on 20 years' time, with interest at 5 per cent. Those who drafted this bill evidently had in mind creating by legislation conditions where many men could, to the exclusion of others, secure the cream of the Indian lands.

Section 3 is objectionable for the reason that there is no occasion for the conveyance by the Secretary of the Interior or by the general council of Chippewa Indians of Minnesota, as provided for in section 3 of H. R. 9924, of any lands now reserved or used for school purposes for the Indians. These lands that are reserved and not used should be sold or leased as other Indian property. These lands used for school purposes should certainly not be conveyed to the State. The Chippewa Indians whom I represent, as well as the Chippewa Indians of the Red Lake Reservation, are firm in their belief that they should, and they insist upon retaining the Indian schools at Leech Lake, White Earth, and Red Lake Reservations until conditions change and better schools are otherwise provided. The Indians I represent, as well as the Red Lake Indians, denounce as wrongdoers the persons who drafted section 3 of H. R. 9924, which provided that the general council of Chippewa Indians of Minnesota would be authorized to convey to the State of Minnesota property held by the United States Government in trust for the Chippewa people. We feel that the men who conceived this idea are worthy of a most complete condemnation.

Section 4 is a most objectionable provision. It applies to only the Leech Lake and Red Lake Reservations, as I understand it. Recently action was suggested to require the Indian Bureau to cancel the licenses or permits of the Chippewa Indian Trading Co., of which John G. Morrison, jr., is president, and B. L. Fairbanks to trade upon any portion of the Red Lake Reservation. As I understand it, the Chip-

pewa Trading Co. has permits for two stores, and Fairbanks the same. Many of the Red Lake Indians desire that they be removed from off the reservation. If this section 4 becomes a law, it will permit these people to acquire the lands upon which their buildings are now situated and ply their trade with the Chippewa people in utter defiance of any supervision, restraint, or control of the United States Government. In other words, if section 4 becomes a law, these traders can rob the Indians to the fullest extent possible and remain upon the reservation and defy the Government.

Section 5 is objectionable for the reason that it grants to the general council of Chippewa Indians of Minnesota the right to appoint one or two competent surveyors to survey and examine swamps or other lands with a view of securing evidence to be used before the Court of Claims. A great majority of the Chippewa Indians of Minnesota do not want the so-called general council of Chippewa Indians of Minnesota, headed by John G. Morrison, jr., to have anything to do with the Chippewa Indian affairs.

Passing now to H. R. 12972, sections 1, 2, 3, and 4 have been so rewritten as to be free of the principal objections that were held against similar sections in H. R. 9924, or the committee reprint. Section 5 confers jurisdiction upon the Court of Claims to entertain all and determine claims against the Red Lake Band of Chippewa Indians. The Red Lake Indian Reservation and the money held by the Government in trust for it is the fat lamb the wolves have in sight, and when I speak of the wolves, I have in mind these men now active in urging this legislation who were also active in connection with frauds against the Chippewa people on the White Earth Reservation. We repeat briefly what we said before, that under the treaty of 1855 all these Indian people now urging passage of this act, ceded, sold, and gave away all of their rights to the present diminished reservation. (See last part of sec. 1, treaty of Feb. 22, 1855.) The Nelson Act of 1899 expressly provided that the Red Lake Chippewa Indians reserved that portion of the Red Lake Reservation which, in the judgment of the commissioners, under their act of 1899 should be required for the purpose of allotting the Red Lake Indian. And the commissioners determined that the area found in the diminished Red Lake Indian Reservation was necessary for these purposes and the present diminished Indian Red Lake Reservation was reserved to the Red Lake Indians alone and no part of that has ever been ceded to the Government to be sold for the benefit of other Indians as contended by Mr. Ballinger. In addition to this, these Indians whom I represent and these mixed bloods whom I represent are absolutely opposed to any legislation which will permit the Morrison faction or anyone else instituting a suit in the Court of Claims or anywhere else against their brothers and their friends, the Red Lake Indians, with a view of taking from them one iota of property or one cent of money that is now and has been recognized as their own.

In conclusion, these Chippewa Indians and these persons of mixed bloods whom I represent and for whom I speak and whose rights I am endeavoring to preserve for them, denounce this whole scheme of this so-called General Council of Chippewa Indians of Minnesota proposed by John G. Morrison, jr., B. L. Fairbanks, Gus Beaulieu, and others as an attempt to commit more violent frauds and outrages upon the Chippewa Indians and thereby secure for themselves in the aggregation of one to two million dollars of the Chippewa property. Your committee is again reminded that should the decision of the case brought by John G. Morrison, jr., against the general council of Chippewa Indians of Minnesota (Inc.), result in a final decision against the John G. Morrison, jr., Beaulieu, and Fairbanks faction and in favor of the general council of Chippewa Indians of Minnesota (Inc.) of which Mr. Benjamin Caswell is president, this legislation which now may be said to recognize the Morrison, Beaulieu, Fairbanks council might be said to apply to the council represented by Mr. Benjamin Caswell. We then may be asked the question whether or not under this situation we would be opposed to this legislation and our reply is this: No legislation should be passed recognizing either faction under the circumstances that exist where the factions are diametrically opposed to each other upon principles that can not be compromised. If any is to be passed it may be such that will recognize the existence of these two factions and if possible give each recognition and representation to insure the protection of their rights.

The CHAIRMAN. Who is the next witness?

Mr. MERITT. Mr. Head, a Red Lake Indian, is here.

Mr. HENDERSON. I would rather have Mr. Graves heard first.

Mr. MERITT. Peter Graves, a Red Lake Indian, will now be heard.

Mr. HENDERSON. Mr. Chairman, on behalf of the Red Lake Indians whom I represent here, I ask the indulgence of the committee in the

hearing of these two witnesses who are all the witnesses that the Red Lake Indians will offer, and whose knowledge is extensive on this subject, but they may not be as fluent as some of the other witnesses, and I ask for just as much consideration as the committee can possibly give them so that there may be a full and clear portrayal of the attitude of the Red Lake Indians on this subject. As attorney for the Red Lake band, I will promise the committee to abstain from all remarks if necessary, and if I do have anything to say it will be very compact.

The CHAIRMAN. We have remaining 2 hours and 10 minutes to spend upon the debate on this question, and it is quite immaterial to the committee who it will hear during the balance of that time, and whatever time these two gentlemen take up, of course, will leave a balance that someone else will have the privilege of using, whomever you decide you want to wind up the argument.

Mr. MERITT. Mr. Chairman, we are very anxious to have Mr. Henderson make a legal argument on the question of the ownership of the Red Lake Reservation, and I hope that sufficient time will be given for that purpose.

The CHAIRMAN. Suppose we give Mr. Henderson the last hour. I am willing to discuss the question now of who shall use the last hour.

Mr. BALLINGER. The general counsel had less than two mornings; the other side have now had three days last week and this will be two more days, making five full days. We would like to have a little time in which to reply to all of this matter, and then take up the bill.

The CHAIRMAN. It is the intention of the committee to discuss this bill, and it hopes to have with it Mr. Ballinger and at least Mr. Meritt and perhaps Mr. Henderson, if he desires to be heard to-morrow, but it will be an executive session so that we can try to learn something about the proposed legislation ourselves, and use such information as we have received to assist us in that matter.

Mr. BALLINGER. Can't we have, then, three-quarters of an hour or an hour, this morning, in which to make any reply?

The CHAIRMAN. Suppose we divide the hour between Mr. Ballinger and Mr. Henderson, the hour from 12 to 1 o'clock, if Mr. Henderson wants that much time.

Mr. HENDERSON. I will try to accommodate myself to whatever the pleasure of the committee may be.

The CHAIRMAN. I thought we could get through with the other witnesses before 12 o'clock.

Mr. HENDERSON. We think, Mr. Chairman, that the value of the testimony of these witnesses is so much greater to the committee than any address that counsel might offer, that we prefer to have you hear them.

The CHAIRMAN. Then if there be no objection we will give Mr. Ballinger three-quarters of an hour and your side can have the balance of the time from now till a quarter after 12. Is that agreeable?

Mr. BALLINGER. That is agreeable.

STATEMENT OF MR. PETER GRAVES, A RED LAKE INDIAN.

The CHAIRMAN. Now, Mr. Graves, you are a Red Lake Indian?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. And what degree of blood are you?

Mr. GRAVES. I am about half white and half Indian.

The CHAIRMAN. And you have resided up there on the Red Lake Reservation?

Mr. GRAVES. Yes, sir; I was born and raised there.

The CHAIRMAN. And are you a regularly elected delegate of the Red Lake Band?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. Here to represent them?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. And speak for them with authority?

Mr. GRAVES. Yes, sir; but we had so much respect for the Indian Office is the reason that I am alone here, because Mr. Meritt has told our Indians that one would be sufficient to represent the Red Lake Indians here; but Mr. Head, here, came of his accord and arrived here a short time ago, because he thought that I should be accompanied here by some Red Lake Indian.

The CHAIRMAN. I think that is a reasonable qualification as the representative, and you can go ahead with your statement.

Mr. GRAVES. Resolution No. 3 of the council proceedings of December 1, 1919, was the time I was designated to act for and in behalf of the Red Lake general council. They gave me authority to approach and consult Congressmen and the officials of the department pertaining to their matters, tribal matters. I am sorry to say that I never took advantage to go and see Congressmen as I should, to justify my duties towards the Red Lake Indians, for the reason that I am very backward about taking the time of the Congressmen. That is the only reason, and what I have to say here will be entirely strange as to what has been told them by the professional lobbyists, these white Indians of White Earth Reservation. They have become professional lobbyists, as everybody knows, among the Congressmen, and they pump the Congressmen full of their contention and misrepresenting the majority wish of these Indians in Minnesota, because those Indians in Minnesota are unable to present their side to the proper parties. They are unable to be heard.

There is a matter right here—if there was a direct question put to them as to what they believe—to the contention between the Red Lake Indians as to the ownership of the Red Lake Reservation and the other Minnesota Chippewas, I believe that they would say they understood that the Red Lake Indians reserved their diminished reservation for themselves and their children, and that is just the way that the Red Lake Indians look at it to-day, because why? When the commissioners offered the act of 1889 they refused it. They told the commission that their mission was a failure. The commission wanted to succeed in their mission, of course, and we in talking around, as I have been told—although I am a signer, one of signers of that act, but I was here in Philadelphia going to school at that time. I don't know who signed it for me, but my name appears there as being present.

The CHAIRMAN. By that you mean that you did not sign it yourself?

Mr. GRAVES. I did not sign it, but somebody signed it for me. That is the idea, because I could not have signed it, because I was attending school in Philadelphia at that time.

The CHAIRMAN. How old were you at that time?

Mr. GRAVES. I was down on the census as 19 years old at that time; the church records show that I was 16 at that time.

Well, the commissioners then got around and made the Red Lake Indians believe that they could have that diminished reservation exclusive of the Chippewas of Minnesota. Having so much vast area over and above the balance of the Minnesota Chippewas, they could cede that, and what they ceded outside of this diminished reservation would go into the common fund, but that this reservation would be held as theirs exclusively. That is what the Indians were made to understand by this commission.

When Maj. McLaughlin went to negotiate a treaty with them in 1902 the Indians said that anyone that would go to Maj. McLaughlin and talk about allotments would be killed right there. That is the feeling that those Indians had against allotments. I told Maj. McLaughlin at that time what I heard in the progress of these agreements. I said to Maj. McLaughlin: "I expect some day, if I live long enough, that I will probably be an allottee, because the Government won't leave these Red Lake Indians alone until they are allotted." I said to him: "Can't you put in this agreement here to give me 160 acres if I should live out the time, instead of getting 80 acres?" And he saw the contention of those Indians, and that is the reason in that section 4 he put that so clearly that the other Indians would not have any right in that diminished reservation. And we do claim, and I agree with the Indians—I agree with the Indians of Red Lake that they are right in their contention after ceding such a vast area to be enjoyed in common right with the Minnesota Chippewas, why should they have ceded every foot of it, they not being present at that council, but I do believe that their contention that they were made to believe that this diminished reservation was to be held in common by them.

The CHAIRMAN. Now let me ask you a question right there. You are a very intelligent Red Lake Indian. There is no question about that. Now you claim that the Red Lake Indians are entitled to all of the benefits of that diminished reservation?

Mr. GRAVES. Yes, sir; exactly.

The CHAIRMAN. And that you are also entitled to participate in the general funds of the Chippewas from all other sources?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. Now, go ahead.

Mr. GRAVES. We do not begrudge what we have ceded in common; we do not begrudge that. We have no claims on that, but we do claim what the commission made the Indians believe. We were members of this general council two years ago and we wanted the general council to assume the same attitude that the real Indians assumed at that time toward the Red Lake Indians pertaining to their diminished reservation, but the boss Indian politicians, Ben Fairbanks and John G. Morrison, refused to entertain any proposition from the Red Lake Indians. So we voted from that council and we don't do business through that council and we don't want to do

business through that council. What we want is what belongs to the Red Lake Indians as they understood in the negotiations of the commission that they had the authority to negotiate with the Red Lake Indians as it pertains to the act of 1889. The Red Lake Indians are scared to death and in terror to-day on account of this general council of the Minnesota Chippewas, because it is being controlled by white Indians, merchants, and lawyers. Who is able among the Red Lake Indians to start up against these men? No one is.

Mr. KELLY. Let me ask you right there, you referred to the act of 1889.

Mr. GRAVES. Yes, sir.

Mr. KELLY. And as I read that act of 1889 it clearly says that this commission shall have power to reserve in the Red Lake Reservation sufficient lands to provide allotments for the Red Lake Indians under the general allotment act of 1887. Now, suppose that commission had reserved only 300,000 acres instead of 700,000; then would you have a claim for more than 300,000, or would you have admitted that they had a right to make it 300,000?

Mr. GRAVES. The real Indians understood the commission to say that the next generation might want to take allotments, but in 50 years from now those that would be living at that time should be willing to take allotments, if we had so much in the diminished reservation. The White Earth allotment rolls were open for about 10 years, you see, and if we ever want to take allotments on the diminished reservation, which generation might want to, then we would use that for our allotments.

Mr. KELLY. The point I was trying to make was this, that the commissioners simply selected 700,000 acres, so that every Red Lake Indian would get his due allotment, and then the rest of it would be disposed of.

Mr. GRAVES. The commissioners had to give the Red Lake Indians the boundaries that they had marked out on the paper as what they wanted to reserve. It was not up to the commission; the law gave them that, but the Red Lake Indians didn't want allotments; they wanted to reserve the reservation that they are to hold in common, and they defined the lands themselves.

Mr. KELLY. Well, the law gave no such authority.

Mr. GRAVES. No, I guess not.

Mr. KELLY. The act of 1889 clearly says that the Red Lake Indians shall be allotted the same as other Indians and not on a two-thirds agreement of the Red Lakes, but on a two-thirds agreement of all the Chippewas. So the law don't give that authority.

Mr. GRAVES. Yes, but you want to understand that the Red Lake Indians when the act was read to them they told the commission, "Your mission is a failure;" but the commission didn't want to be treated that way. The commission, you must understand, were very able men. One of them was a bishop, and I guess the other one was a doctor, and Mr. Rice was a governor at one time of Minnesota.

Mr. KELLY. Do you claim that the Red Lakes never accepted the act of 1889?

Mr. GRAVES. They accepted the act of 1889 as it was made—as it was told, as far as their diminished reservation was concerned.

The CHAIRMAN. He maintains they understood that they were to have and to hold forever for themselves this diminished reservation, even under the act of 1889.

Mr. KELLY. The commissioners gave that explanation when they went up there?

Mr. GRAVES. The commissioners made the Red Lake Indians believe that that diminished reservation was theirs exclusively.

Mr. KELLY. That is a clear statement.

The CHAIRMAN. Now, unless you have something further of a particular nature which you desire to say, it seems to me you have made all the statement that is necessary. I can't understand what further you would have.

Mr. GRAVES. I haven't got started yet. If you want to cut me off—

The CHAIRMAN (interposing). No, I don't want to shut you off; I think you have made a splendid exhibition here, and you have given us a lot of information. You have made, to the chairman's idea, the potent statement of this whole proposition, so far as the Red Lake Indians are concerned, and I don't see how you can make the situation any clearer than you have by an extended statement—by any further extensive remarks. You can go ahead if you desire.

Mr. KELLY. In this report of the commissioners that went out under the act of 1889, as submitted by the Congress at that time, the statement is clearly made that in this diminished reservation of 700,000 acres they took more than would be needed by the Red Lake Indians for this reason—this is their statement: "This larger than they will eventually require, but as there are swamps and other untillable lands therein it can not be reduced until after survey and allotments shall be made."

Now, that clearly was the idea of the commission, that they would reserve enough, including swamps as untillable lands, to make allotments, and then they would dispose of the rest of it.

Mr. GRAVES. Well, they were very smart men, as I say. That can run for two or three hundred years if you want it. He told the Indians in 50 years he expected that they would be in a condition advanced enough in the white man's civilization for them to be allotted. To-day they say they are not far enough advanced to be allotted. They have seen what is going on in Minnesota. They have seen these land frauds. They are experienced. They hear, and when an Indian hears anything he takes it to be a fact, whether it is true or not. But I think the land frauds at White Earth can be proven that they are correct.

Mr. HERNANDEZ. So then the Red Lake Indians contend that they should not be allotted yet?

Mr. GRAVES. Until they say that they want to take their allotments.

Mr. HERNANDEZ. Well, couldn't they be allotted, whether they are competent or not? They don't have to dispose of their lands because they are allotted. They can be held in trust by the Department of the Interior through the Indian Office indefinitely if they want to. We can provide for that. They ought to be allotted, in my opinion, and this matter cleared up. That has been the trouble, that they have been legislating too much on this matter.

Mr. GRAVES. Well, the only legislation we have since the act of 1889 was the agreement made by Maj. McLaughlin with those Indians there. That is the only legislation. Of course the Government had to get part of that reservation for forest reserve by that rider in the appropriation bill in 1916.

Mr. HERNANDEZ. The forest reserve is all right, I suppose, but I hold that outside of the forest reserve there is enough land there right now to allot everyone of the Red Lakers. Is that so?

Mr. GRAVES. Well, when the Indians want to take allotments I expect they will want the forest reserve, if they haven't enough other lands. That is the Red Lake Indian forest there.

Mr. HERNANDEZ. Well, that is all right if it is there. That is for Congress to decide.

Mr. GRAVES. Of course it is Congress, but the Red Lake Indians have the right by occupancy. But I am not a lawyer but I want to explain a few things here.

The CHAIRMAN. I want to ask you a question here. There have been several reasons given by other witnesses as to why the Red Lake Indians have not been allotted. Now for 31 years the bureau has had the right under the law of 1889 to allot that Red Lake territory.

Mr. KELLY. Not only the right, Mr. Chairman, but the duty.

The CHAIRMAN. But the duty. What reason do you give as to why there have been no allotments made up there?

Mr. GRAVES. The commission that negotiated the act in 1889 made those Indians believe they didn't have to make allotments until they wanted to. Now that is the whole substance as they understood it. Now it is up to those Indians, you see, and the department knows that the Red Lake Indians don't want to take allotments at this time, up to this time.

The CHAIRMAN. Then you think the department has been guided wholly by the wish of the Red Lake Indians?

Mr. GRAVES. Certainly. They ought to be advised on that.

The CHAIRMAN. Well, there have been other reasons given for the lack of having made allotments up there.

Mr. GRAVES. You can give all kinds of reasons, but that is the true reason, that the Red Lake Indians don't want to take allotments, and the allotments are not to be enforced on them without their consent. They have there in their council proceedings that whenever one wants to allot those Indians, they must consult them first.

The CHAIRMAN. But there is nothing in the law which makes any such provision as that.

Mr. GRAVES. No, it is not in the law but the Red Lake Indians believe they have something to say about it.

The CHAIRMAN. Then the committee is to understand you to say that up to this time the Red Lake Indians have not desired allotments?

Mr. GRAVES. No, they haven't desired allotments.

Mr. RHODES. And they don't desire them now?

Mr. GRAVES. They don't desire them now.

Mr. RHODES. And you think the department has done right in not making allotments?

Mr. GRAVES. Well, according to the wish of the Indians, of course, they did right.

The CHAIRMAN. Proceed with your argument, Mr. Graves.

Mr. GRAVES. Now in this bill—I have read some of it, but, of course, I am not a lawyer nor do I pretend that my interpretation of any act is the correct interpretation. This bill, especially the first features of it, as introduced by Ellsworth and Knutson, is a well-studied bill by certain interests. That is the best I can say for that.

The CHAIRMAN. Do you mean “by certain interests,” or “for certain interests?”

Mr. GRAVES. By certain interests. Whoever is the author of that bill wants to take the government of the Minnesota Chippewas away from the Indians, really, and administer it themselves.

Mr. RHODES. Then would you say those provisions were drawn in the interests of the Indians or against the interests of the Indians?

Mr. GRAVES. Against the interests of the Indians, because the Indian Bureau is trying to educate those Indians there under the act of 1889, which is absolutely correct. These Indians here, where I am from, are not able to properly clothe nor feed their children, and therefore, at this time, the day boarding school is the school for the Indian children to-day, and the Indian Bureau knows that.

Mr. RHODES. Who is in the majority, those who want these lands allotted or those who are opposed to allotments?

Mr. GRAVES. On the Red Lake Reservation?

Mr. RHODES. Yes.

Mr. GRAVES. The majority is those that are opposed to allotments.

Mr. RHODES. I do not want to interrupt the proceedings. Go ahead.

Mr. GRAVES. Since we left this council, and the authors of these bills, gentlemen of the committee, if these bills are going to be passed we want to be left entirely out—that is, as far as the Red Lake diminished reservation is concerned. We don't claim anything more to what was ceded, and that the Red Lake Indians ceded and that that was to go for the common interest of the Minnesota Chippewas. Out of approximately 3,200,000 acres on the Red Lake Reservation at that time there was two and a half millions of that ceded to be turned into cash for the benefit of all the Minnesota Chippewas. The other Indians approximately had 1,400,000 acres out of that, that were allotted out of that, which left them approximately 700,000 acres to 2,500,000 acres of the Red Lake Indians—700,000 acres by the other Indians and about 2,500,000 acres by the Red Lake Indians.

Mr. KELLY. Right there, Mr. Graves, the act of 1889 applied to all the different tribes the same, did it not?

Mr. GRAVES. The act of 1889 was drafted right here in Washington.

Mr. KELLY. And for the purpose of dealing with the entire Chippewa question?

Mr. GRAVES. For that purpose, because the strongest argument was some years back it was a common territory for all of the Chippewa nations, but the act of 1864 defined the Red Lake Reservation, and you can't take—no matter how much argument you might put on what happened a thousand years ago, that act of 1864 is law and is binding on the Red Lake Indians as well as the Government.

Mr. KELLY. The act of 1889 was after that time, of course.

Mr. GRAVES. Yes, of course, that is subsequent.

Mr. KELLY. Here is the point I want to get at: The act of 1881 applied to all the tribes, and it absolutely compelled allotment on White Earth and the other reservation, and the Government went ahead and allotted arbitrarily the Indians. Now didn't that apply also to the Red Lakers and shouldn't they have been allotted at the same time as the other Indians on the other reservations?

Mr. GRAVES. Well, that is exactly it, if you do not know what happened there at Red Lake in making the agreement with those Indians.

Mr. KELLY. The agreement can't overthrow the law.

Mr. GRAVES. Well, now, of course if we want to get down to the you might as well say the Red Lake Indians never consented to that treaty.

Mr. HERNANDEZ. But as a matter of fact they did.

Mr. GRAVES. The Red Lake Indians wanted to put in something there that they wanted. They were not going to accept the face of the act itself.

Mr. HERNANDEZ. But they did ratify and indorse the act.

Mr. GRAVES. They did, after the promise that they would own that diminished reservation exclusively.

Mr. RHODES. Mr. Kelly, does that act of 1889 make its provisions in any subject to ratification of the tribe?

Mr. KELLY. It does to this extent: It provides that the allotments shall be made on all the other reservations after an agreement has been entered into by two-thirds of the adult males, but the Red Lake Indians must be obliged to accept the allotment by a vote of two-thirds of the Chippewas, which shows that Congress clearly understood there might be some objection up there, was willing for the sake of justice to take it out of the hands of the Red Lakers and put it in the hands of the Chippewas; so two-thirds of all the Chippewas covered the Red Lakes.

Mr. RHODES. Your views of the matter and construction of that statute—are you certain that the act is conclusive as to the intention of Congress to allot these lands to the Red Lake Indians?

Mr. KELLY. There can be no doubt whatever that Congress intended to allot those lands and required this commission to allot them before any lands could be sold.

Mr. RHODES. And as a matter of fact the department has not allotted them?

Mr. KELLY. It has not carried out the act.

Mr. RHODES. Now that is your view of the matter. I would like to ask Mr. Meritt at this juncture if the reason the department has not allotted these lands was due to—well, I will say to what was the failure of the department to allot these lands due? I ask that in order to define the issue right here, without rambling on around over a whole lot of foreign territory.

Mr. MERITT. I thought we had already made perfectly clear the reasons why we have not made allotments on the Red Lake Reservation, and those reasons are concisely as follows: The Red Lake Indians themselves do not want allotments.

The CHAIRMAN. But, Mr. Meritt, this statement from this witness is the first time that the statement has been brought out in this testimony.

Mr. MERITT. No, sir; I made that statement in my own testimony.

The CHAIRMAN. I do not remember having heard anyone say that it was on account of the Red Lake Indians not wanting allotments.

Mr. MERITT. The Red Lake Indians have protested against allotments, and the records of our office will so show.

Mr. RHODES. We accept that, Mr. Meritt, as being true. Was the reason of their protest the moving cause which was responsible for the department's not making the allotment, or did it have anything to do with your failure to allot?

Mr. MERITT. That was one of the moving causes.

Mr. RHODES. Do you recognize that the law gives them the option to accept or reject the treaty? I mean the act?

Mr. MERITT. The law leaves it within the discretion of the Secretary of the Interior when those allotments shall be made. The law does not say that the allotments shall be made within a certain period.

Mr. RHODES. Then you do not agree with the statement that Mr. Kelly has made, that it was conclusive and binding, and the time was fixed?

Mr. MERITT. I do not, and I stated further in my testimony that the other reasons why we have not made allotments, besides the objections of the Indians on the Red Lake Reservation, are these: That it is absolutely impossible at this time under present conditions to allot lands on the Red Lake Reservation and divide the property equitably, for the reason that part of that land is covered by timber of very great value; part of the land is now swamp land and needs to be drained, and before we can make equitable and just allotments on that reservation it will be necessary to sell the timber and use part of the proceeds from the sale of the timber in draining the lands, and that can be done at a cost of less than \$3 an acre, according to the reports of the War Department.

Mr. KELLY. I think it is only fair to say, in view of that statement that the answer of Mr. Meritt's boiled down means that the Indian Bureau understands that it knows better how to deal with these Indians than Congress does and that when Congress lays down a definite policy, the Indian Bureau claims the right to change that policy, if it believes in its wisdom that the policy is not conducive to the best interests of the Indians.

Mr. RHODES. Now let us see—there should be no argument between any member of the committee and Mr. Meritt or the gentleman speaking—is the language of that act so indefinite and so uncertain that it can not be seen what the intention of Congress is?

Mr. KELLY. It is not.

Mr. RHODES. I thought it was very definite and very certain.

Mr. HERNANDEZ. My understanding is that it is very definite.

The CHAIRMAN. We have the act here, and let us read that section which deals with that question of allotments.

Mr. MERITT. The law is found in section 3 of the act of January 14, 1889.

Mr. KELLY. In section 1—now let me read definitely the distinction made between the Red Lake Indians and these other reservations. The act provides for the appointment of a commission whose duty it shall be as soon as practicable after their appointment to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in

writing of all their title and interest in and to all the reservation of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this act and existing acts.

It is clear and clean. Now it goes no further and says that after the Red Lake Reservation:

This agreement, if made and assented to by two-thirds of the male adults over 18 years of age, of the band or tribe of Indians occupying and belonging to such reservation, and as to the Red Lake Reservation, the cession and relinquishment shall be deemed sufficient, if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota.

That is the only distinction made in the act between Red Lake and the other reservations.

The CHAIRMAN. Now let us consider, then, for just a moment: I understand the witness to say that they never did by two-thirds or any other number ratify that agreement, and therefore—

Mr. KELLY (interposing). No; they did ratify it.

The CHAIRMAN. I understand him to say that they did not; that they advised the commission immediately that they would have nothing to do with it.

Mr. GRAVES. No; they signed the proviso.

The CHAIRMAN. They did ratify it?

Mr. GRAVES. They thought they were not ratifying that act; they thought the commission had authority to promise them they would hold that diminished reservation for their exclusive benefit.

Mr. MERITT. They ratified the act, Mr. Chairman, with the understanding that the Red Lake Reservation was to belong to the Red Lake Indians as promised at that time, as shown by the testimony and the records.

Mr. RHODES. Is there anything in the records to show this reservation you speak of?

Mr. MERITT. Yes, sir.

Mr. RHODES. Does the department recognize that as a legal and binding obligation?

Mr. MERITT. We do. Congress has entered into a solemn agreement that the Red Lake Reservation shall belong to the Red Lake Indians exclusively. It has also enacted legislation which clearly shows that it was the intention of Congress that the Red Lake Reservation should belong to the Red Lake Indians. Some people seem very particular about certain agreements made with Indians and not so particular about other agreements made with Indians. Now, we contend that Congress has clearly recognized the Red Lake Reservation as belonging to all of the Red Lake Indians, and that none of that reservation belongs to any other Indians.

Mr. RHODES. But that doesn't hardly go to the question of this allotment and the disposition of the lands by allotment, does it? I don't think it is disputed but that it is their property, but it is more a question as to whether the lands should be held for the tribe as a whole, unallotted, or whether it should be allotted.

The CHAIRMAN. Now, what I started in to clear up was—I am satisfied I have gotten that. Now here is this agreement—

Mr. KELLY (interposing). Section 3 goes on to provide about this allotment;

That as soon as a census has been taken and the cession and relinquishment has been obtained, approved, and ratified as specified in section 1, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under direction of the said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereafter, as soon as practical, shall, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on White Earth Reservation in conformity with the act of February 8, 1887, entitled "An act for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the territories over the Indians, and for other purposes."

Now, one part of that act was carried out; all the other Indians were arbitrarily allotted; the Red Lake Indians were not allotted and have not been allotted to this day.

Mr. MERITT. And you will notice, Mr. Chairman and gentlemen of the committee, that the law specifically says "As soon as practicable." It is absolutely impracticable to allot the Red Lake Reservation at this time and divide up the property equitably. The law is perfectly clear on that point.

Mr. KELLY. It says: "As soon as practicable"—as soon as practicable after the commission appointed to make the investigation.

Mr. MERITT. It is absolutely impracticable to allot that reservation at this time, and it will be impracticable to allot the reservation until the timber on the reservation is sold, and until the wet lands are drained. We are now in the process of doing that very thing, of selling the timber, and a bill is before Congress to drain the lands. As soon as we sell the timber and drain the lands we will allot the reservation and not before, unless we have specific authority from Congress directing that it be done, and I do not believe that Congress will give that specific direction with the correct information before it as to the conditions existing on that reservation.

Mr. KELLY. Well, is it contemplated that 31 years after an act is passed, that that is included in the words "as soon as practicable?"

Mr. MERITT. That leaves it to the discretion of the Secretary of the Interior when it is practicable and the Secretary of the Interior, exercising that discretion, has not yet recognized that it was practicable to allot that reservation, and it will not be practicable until the timber is sold and the lands are drained.

Mr. KELLY. That is the point exactly. The Indian bureau does not think it practicable and it may not be for 50 years yet.

Mr. MERITT. We think it will be practicable as soon as the timber is sold and the lands are drained, and it will not be practicable until that time.

Mr. RHODES. Is that the last act of Congress providing for the allotment of the Red Lake lands?

Mr. MERITT. No, sir; there is a provision in the act of 1904.

Mr. RHODES. That is what I was thinking.

Mr. MERITT. In regard to allotments.

Mr. RHODES. Is that directory?

Mr. MERITT. No, sir; that is discretionary, the same as the act of 1889.

Mr. RHODES. In what way does the act of 1904 conflict with the act that Mr. Kelly has cited?

Mr. MERITT. The act of 1904 does not conflict with the act of 1889 so far as the allotments are concerned, but it does specifically recog-

nize that the Red Lake Reservation belongs exclusively to the Red Lake Indians.

Mr. RHODES. Then the act of 1904 does not relate to the question of allotments?

Mr. MERITT. I will read the language contained in the act of 1904.

Mr. RHODES. What I am getting at is that it is not an abrogation or repeal of the former act?

Mr. MERITT. It does not.

The CHAIRMAN. Well, I will say for the benefit of Mr. Graves that we have consumed a good part of his time on something that is entirely foreign to what he probably wants to say to us.

Mr. MERITT. The act of 1904 contains this provision:

ARTICLE 4. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation in Minnesota, shall possess their diminished reservation independently of all other bands of the Chippewa Tribe of Indians, and shall be entitled to allotments thereon of 160 acres each of either agricultural or pine lands, the different classes of land to be apportioned as equitably as possible among the allottees.

The CHAIRMAN. The principal thing that this act did was to authorize the allotment of 160 acres instead of 80 acres.

Mr. MERITT. And also it recognizes specifically that the Red Lake Reservation belongs exclusively to the Red Lake Indians.

The CHAIRMAN. Yes. It would seem at this time to be diametrically opposed to the legislation of 1889.

Mr. MERITT. Not diametrically opposed, when we take into consideration what was said to the Red Lake Indians by the commissioners in 1889.

The CHAIRMAN. Yes, sir. I am speaking of the language of the law, though. Now, Mr. Graves, you can proceed if you can get the opportunity.

Mr. GRAVES. As soon as practicable would be interpreted by the Red Lake Indians to be when they are willing to accept allotments. And I do not wish to convey the belief to the committee that the Red Lake Indians are not going to take allotments; they are going to take them some day. There is no question about that, but you leave them alone; they are going on the promises of the commission as I have stated. The law can be interpreted differently altogether, but that same law was interpreted to them and they sent the commission away and told them they didn't want anything to do with that. When the poor, old ignorant Indian, the defenseless Indian, was promised that what little reservation he would reserve after ceding all of his lands, he would not be molested in, but when he was ready he could take allotments, and if the Government wants to be honest with those Indians they must certainly—they ought to wait until those Indians wish for allotments.

I took this matter up for the Red Lake Indians, but I know I can't do them justice, because I am not an orator or anything of that kind. I can't do them justice. As I said, I don't go to the Congressmen because I am backward. I don't like to go and tell the Congressman, and he may think that I am stuffing him with something that is not true, just like he has been stuffed right along.

Mr. KELLY. This committee has only one purpose, Mr. Graves, and that is to do justice. We want to get the facts.

Mr. GRAVES. Then you want to do justice to the Red Lake Indians.

The CHAIRMAN. Well, we are listening to you to see if we can be convinced that you have not had justice up to this time.

Mr. GRAVES. Now in that bill, of course, anything that pertains to the Red Lake Indians wants to be stricken out of the bill, and the Red Lake Indians will be satisfied with no other. We don't want a townsite on Red Lake. They will agree to anything like that when they want a town site whenever there is one necessary. There is a town there called Red Lake, and if anybody wants to go to the town he can go there. It is only 5 miles from the agency. But that the town site is not the wish of the Red Lake Indians; it is the wish of the White Earth Indians that are traders there, and they run the politics there at Red Lake—that is, they attempt to do so. I don't know how they are going to pan out after this. They were good friends of mine one day, but as soon as I saw the advantage they wanted to take was for their own interest, I departed, and I promised those Red Lake Indians that I would see that they got justice if they could ever get justice as to what they are entitled to as conveyed to them by the commissioner after they had rejected the act of 1889.

The CHAIRMAN. The Red Lake Indians, as I understand your statement here, have no confidence whatever and do not recognize in any way the council which has been recognized by the bureau to operate for the Red Lake Indians in any way. Is that correct?

Mr. GRAVES. Yes, sir; that is correct. They don't have anything to do with that general council at all.

The CHAIRMAN. Now, as you say, you are a modest man, but I think you are making a very clean statement here and are a friendly representative of the Red Lake Indians, and this is a very complex question regarding all of the Chippewa Indians, and I want to ask you if you, as a representative of the people, believe that the Red Lake Indians as a whole are in sympathy with the administration of their affairs by the bureau and are satisfied, wholly satisfied, with the distribution of money and their activities up there in that community?

Mr. GRAVES. Yes, sir. We would rather have the Government look after our affairs.

The CHAIRMAN. That is not the point. It is not a question of whom you would rather have; I am asking you if you are satisfied and content with the situation as it exists?

Mr. GRAVES. Why, yes; in open council the Red Lake Indian Council has called on the Government to protect them through the Indian Bureau.

The CHAIRMAN. And the Indian Bureau has done that to your entire satisfaction?

Mr. GRAVES. To our entire satisfaction? Well, of course, you never can be entirely satisfied. That is out of the question.

The CHAIRMAN. Can you state any particular reason why you are not satisfied with the management of affairs by the Indian Bureau as it exists to-day? Now, you say you are not wholly satisfied; tell us something with which you are not satisfied.

Mr. GRAVES. Well, if I state here that I am satisfied, probably somebody else is not.

The CHAIRMAN. You are speaking now for the Red Lake Band?

Mr. GRAVES. Yes; we are satisfied. We want the Indian Bureau to control our affairs until such time as the Red Lake Indian himself would want otherwise. We want the Government to protect the Red

Lake Indian from the same frauds that were committed at White Earth on the White Earth allotment. If you know the real condition of those White Earth Indians, it would be astonishing to you gentlemen; it would be astonishing to you. We don't know the real conditions there.

Mr. KELLY. I have read that in former hearings of the investigation, and it was very deplorable.

Mr. GRAVES. When an Indian applies for a fee patent on his land why does he apply for that fee patent? Does he apply just to have the privilege of paying taxes? My experience has been altogether different all the time. When an Indian calls for a fee patent he generally wants to sell it and get what money he can out of it every time.

Mr. KELLY. Has the Indian no desire whatever to be considered a free citizen and willing to pay taxes for that privilege, or does he always want to be in the position of a ward with the Indian Bureau forever guiding his destinies?

Mr. GRAVES. If you were an Indian you might be on paper a ward, but you don't have to stay on the reservation. I have got one boy that is working in the steel plant in Duluth. All that Mr. Ballinger was crying about here when he was telling you that these Indians were penned up on the reservation is not so. I can get out here and get a position and I wouldn't have to go back on the reservation, and then, at the same time, I wouldn't lose my rights either.

Mr. KELLY. What is your boy now, for instance? Is he a citizen, declared competent with the rights of American citizenship?

Mr. GRAVES. I don't know what he is doing there. He proclaims his job to be a white man or something else, but he is there working just the same as anybody else, and I don't know but what he might be a voter, but he hasn't got any right to vote, but he can pass for a voter just the same if he wants to.

Mr. KELLY. I don't mean to claim, of course, that he is a white man, but I want to know if he is an American citizen with the rights of citizenship; the right to vote and pay taxes.

The CHAIRMAN. Has he been declared a citizen?

Mr. GRAVES. No; he has no allotment. He is unallotted.

Mr. KELLY. Well, I was wanting to know if he would not desire to be a citizen and whether the other Indians on Red Lake do not have any desire at all to be American citizens.

Mr. GRAVES. Well, that is too deep a question for them at that.

The CHAIRMAN. Now, as I understand, your whole argument it is that you, as a representative of the Red Lake Indians, are absolutely opposed to this legislation in any form in so far as it affects in any way the Red Lake Band of Indians?

Mr. GRAVES. Certainly. If we want segregation and let the 50-year period begin at the time the other Indians—at the time the allotment rolls were closed—say that the allotment closed 31 years ago, then they have got only 19 years yet before that 50-year period is up. But we will be allotted as soon as practicable, and that is when we want the allotments. Then there is plenty of allotments to take care of the Red Lake Indians after their allotments.

The CHAIRMAN. It seems to me that some one up there has had sense enough, or been able to get somebody who has had sense enough to protect the interests of the Red Lake Indians quite satisfactorily up to the present time.

Mr. MERITT. And the Indian Bureau has been doing it.

The CHAIRMAN. Well, whoever has done it. Now if you have anything further to say, you can proceed.

Mr. GRAVES. Well, I don't know whether I should say anything more or not. I don't like to make any personal attacks more than I can help. When Mr. Elston was chairman, I didn't get any more than into the hallway when Mr. Beaulieu there gave me a tongue lashing, and Mr. Ballinger at the Interior Building just as soon as I met him, and John Arten—they believe I am easily scared, and they wanted to take advantage of me. Of course I had my ideas too. I don't like to get down to that.

The CHAIRMAN. Well, you have permission to go ahead.

Mr. HERNANDEZ. The act of 1904 which empowers the Indian Office to sell part of the Red Lake Reservation was never ratified by your tribe, was it?

Mr. GRAVES. Well, the original agreement was ratified by the Indians, but Uncle Joe Cannon was here, the watchdog of the Treasury, and he wouldn't allow the United States to pay for the land, and so it was changed afterwards, and the changes, of course, did not change the thing materially. The Red Lake Indians were very generous. They wanted to cede sections 16 and 36 to the State for school purposes, and they objected to that for a wonder, and they wouldn't have anything to do with Maj. McLaughlin after that. They had already made a treaty with them, so that by this act of 1904 the Red Lake Indians got something like \$200,000 more than they first bargained. So there was do damage done there.

The CHAIRMAN. To the Red Lake Indians?

Mr. GRAVES. To the Red Lake Indians.

Mr. HENDERSON. Mr. Chairman, before the witness takes his seat, may I ask the chairman to get into the record, if he will, a statement from this witness as to the comparative status of the Red Lake Indians and the status of the Indians on the other reservations in the State of Minnesota where allotments have been made.

The CHAIRMAN. You heard what Mr. Henderson said, and you can make any statement in regard to it that you desire.

Mr. GRAVES. Well, I think the Red Lake Indians—of course they have received considerable money from the act of 1904, much more than some of the other Indians, while the other Indians have been enjoying those fine lands—and they are allotted on fine lands—and some of them got as high as \$13,000 and up to \$20,000. Some of them did not get anything, of course, and by that they have been getting along first rate, but that doesn't help them to civilization, as was the intent of that act of 1889. That would not get them anywhere. They just know how to spend money when they get it.

The CHAIRMAN. I understand Mr. Henderson wants to have you state whether or not you thought the status of the Red Lake Indians was of a higher grade than that of the Indians that have already been allotted.

Mr. GRAVES. The Government has built houses for them out of the proceeds of the timber sales off of their allotments—that is those allotted Indians. The Government would sell the pine on their allotment and then they tried to get them to use that money for some good purpose and some of them did build houses and buy implements. A very few of them did that. They would rather

use it for some other purpose, and then if the department didn't let them use it for that purpose, the department would hold those funds against the law, or something like that, and of course the department's good intention has been run down by this kind of people. They misconstrue the idea or the intention of the department. That is the way I see it.

What is in the mind of the Red Lake Indians is that they want to be property holders. They don't want to be landless like the landless Indians. They want them held until they are far enough advanced to take allotments, so they can hold them for the full value if they want to sell them. They will know the value, and they will want their allotment then.

Mr. KELLY. They are not as far advanced now, then, as the White Earth Indians?

Mr. GRAVES. Well, I don't think so. They claim they are not in condition to take their allotments now.

The CHAIRMAN. Is that what you wanted to bring out, Mr. Henderson?

Mr. HENDERSON. Hardly, Mr. Chairman. What I wanted to know from the witness, if I could find out, was with reference to the general welfare of the people as a community and as a class, whether they live as happily and as comfortably as the Indians on the reservations where allotments have been made.

Mr. GRAVES. Of course, I think the Red Lake Indians live more happily than the others.

The CHAIRMAN. That is what he wants to bring out.

Mr. GRAVES. Under better conditions. They don't have to be confined, nor do they have to live on somebody else's land like the others do.

The CHAIRMAN. You would not want to say that a band of Indians that have not been allotted and have not come into the possession of their own land are in a more mature state looking toward citizenship than bands of Indians that have been allotted and have gone on to their own resources?

Mr. GRAVES. I don't understand the question. I don't get you, Mr. Snyder.

The CHAIRMAN. Well, I will try to put it this way: Of course, a great number of the Chippewa Indians have been allotted in other parts of Minnesota, and on the Red Lake none have been allotted. Now do you mean to say that the Red Lake Indians are in a higher state of civilization than those in the other sections of the Chippewa where they have become competent and have been allotted?

Mr. GRAVES. No; I don't claim that they are in a higher state of civilization. I don't claim that, but they do know they are civilized enough to know that they ought to be property holders.

The CHAIRMAN. Yes; but the whole theory of the Indian Service is to bring the Indian nearer to the state of civilization in his own right and make him a citizen. That is what we are all striving to do.

Mr. GRAVES. They have made wonderful progress.

The CHAIRMAN. It is certain that unless there is some good reason—and perhaps you stated the good reason—that the Red Lake Indians should not be assisted or helped in their efforts toward final citizenship, and I don't think that your band up there probably are wholly right in holding on to the tribal relation as hard as

you are. It has been thirty-one years now since you had an opportunity to be allotted, and no allotments have taken place; nothing has been done except in a very recent period to assist you looking toward citizenship. Now, without regard to how this legislation may affect the Red Lakes, this committee will not slacken its efforts to assist the bureau in bringing the Red Lake Indians toward citizenship as quickly as possible, because that is the theory, that is the policy, I believe, which should be followed and I think that is the policy of this committee.

Mr. GRAVES. That is what we would like to have followed out just for the time being until the Red Lake Indians want otherwise. Our school system is sufficient there.

The CHAIRMAN. I think we can consider that the gentleman has given us full information.

Mr. KELLY. He has said several times, Mr. Chairman, that he observes the value of being property owners. Now how can those Indians be property owners?

Mr. GRAVES. These Indians are holding that land in union, and in union there is strength, you see, and if we were allotted, unscrupulous persons would come one by one, and pretty soon we wouldn't have any land.

Mr. KELLY. Of course, that argument applies for communism, you know.

The CHAIRMAN. You can't stop the wheels of progress because some fellow is going to be defrauded of his land here and there.

Mr. HERNANDEZ. I notice they got rid of 250,000 acres very readily. They got rid of a good portion of their reservation.

Mr. GRAVES. That is the biggest price we ever got for land, too.

Mr. HERNANDEZ. That is not holding it.

Mr. KELLY. What do those Red Lake Indians do, Mr. Graves? What is their occupation? What occupation do they follow?

Mr. GRAVES. They are gardeners. They have been gardeners a long time before the other Indians were gardeners. They have been raising their own corn and they are known as corn eaters.

Mr. KELLY. The majority of them are farmers and gardeners?

Mr. GRAVES. Yes, sir; they are corn eaters. They have to raise their corn, while the other Indians are living on wild rice.

The CHAIRMAN. Now, if there are no other direct questions we will proceed with the next witness.

Mr. MERITT. May I take just a moment to explain the citizenship question?

The CHAIRMAN. Yes.

Mr. MERITT. Section 6 of the general allotment act approved February 8, 1887 (24 Stat. L., 388), permits Indians to become citizens by their own act. An Indian who leaves a reservation and goes out among white people and takes up his home and adopts the ways of civilization becomes a citizen without further act of Congress or the department. We are glad to have Indians on all of these reservations leave the reservation and go out among the white people and make their home. In fact, we advise them to do that. Any Indian in the United States can become a citizen, under section 6 of the act of 1887, by his own act; that is, leaving the reservation and going out among white people and taking up the ways of civilization.

Mr. KELLY. Do they thereby lose their rights on the reservations?

Mr. MERITT. No, sir; they do not.

Mr. KELLY. They can be allotted just the same as though they were on the reservation?

Mr. MERITT. Yes, sir. Therefore, the son of Peter Graves, who has left the reservation, is entitled to his allotment, and at the same time he can become a citizen of Duluth, if he so wishes.

The CHAIRMAN. Several people are shaking their heads around here with regard to that statement.

Mr. MERITT. That statement is correct, and I can read the law into the record to prove it.

The CHAIRMAN. Now wait a minute. You can have time in your three quarters of an hour to answer that if you see fit.

Is there any other witness for the Red Lakes who desires to be heard?

Mr. MERITT. Mr. Head, of the Red Lake Reservation, wishes to be heard.

The CHAIRMAN. Mr. Head has already qualified as a witness in the hearing.

STATEMENT OF MR. NATHAN J. HEAD, CHIPPEWA INDIAN.

Mr. HEAD. I will not cover as much ground as Mr. Graves has with the Red Lakes, but I will go over the history of the Chippewa Council a little bit.

I was an active member when the first organization was initiated. I was the first secretary. Mr. Rogers of Cass County was our president. We didn't do anything to further the intention of the county for a number of years, which I thought was the intention to protect the tribe in their property rights, especially for the Red Lake Tribe, as I understand it later. There has been several resolutions introduced in that general council, but nothing in any way would interfere with the rights of the different bands of tribes which they may have the prior right before the act of 1889, which has been explained in here when consolidation was made among the Chippewas of Minnesota. Then it came about later, after we went out of office, a new control element stepped in, employed an attorney, which now sits there, Mr. Ballinger, and takes the stand just like he has explained in here, insisting on the rights of the Red Lake Band of Chippewa Indians, and there was nothing for us to only step out of the council, thinking that our rights had been encroached upon. It seems that there was something in there that he wanted to get and they introduced the legislation in 1917 whereby the Red Lakers would have suffered if that had become a law. It was only just here lately, you know, the amendment you suggested in this proposed legislation where the Red Lakers would be entirely protected.

There have been questions asked in here why the Red Lakers object to allotments, and it has been ably explained by the commissioner, Mr. Meritt, and some of the members—Mr. Graves—that even in the commission making this treaty with the Indians they had stated that lands that wasn't fit for allotments, in order to get an equitable allotment under the act of 1904, so that it could be equitably made we made the proposition—this came from the Indians themselves—we made the proposition to Congress here that

the timber be first sold, as part of that proceeds be used for draining those lands, the Red Lake lands. That is now being carried out, is now in process of operation. The land has been laid out by the department so that an equitable allotment shall be made to the Red Lakers.

Mr. SINCLAIR. How long will it take to complete that plan?

Mr. HEAD. It has been stated by the commissioner in here, we have sold part of the timber accumulated, in the neighborhood of half a million dollars in the Treasury now, and shortly after that, of course, some of the land, I will admit, is suitable for allotment for those who want to take allotments.

The CHAIRMAN. Do you agree with the statement of the assistant commissioner that when this land is drained and the lumber is off that there will be plenty of proper land then for all the allotments?

Mr. HEAD. Ample enough; yes, sir.

Mr. SINCLAIR. You have an allotment in the Red Lake Reservation?

Mr. HEAD. I haven't any.

Mr. SINCLAIR. You haven't any right to an allotment?

Mr. HEAD. I had a right.

Mr. SINCLAIR. You want to be allotted, don't you?

Mr. HEAD. To that land; yes, sir.

Mr. SINCLAIR. You don't want to be allotted until the drainage proposition is completed?

Mr. HEAD. I have to follow just the contention of the tribe. Now, you know that construction as it has been explained to me, you couldn't possibly allot an Indian justly in that way. You know, and many people know, that nature having provided that timber on that property, there are tracts of that land that have more timber than others, and if that law became operative there would have to be a portion of the Indians that would be unjustly discriminated against, thereby the Red Lakers pray the Congress to have this law enacted which created the forest reserve, and also authorizing the Secretary of the Interior to sell for the benefit of all the members of the tribe and drain the lands. It was the intention that the bureau when they asked that legislation to drain those lands, so that they would make equitable allotments; so that they could be made.

It seems to me on Mr. Ballinger's contention that there is a barrier to go on and complete the adjustment of all the different bands of the Chippewas of Minnesota; I don't believe that is in the way, only it is just cleaning the way for something that we know might be a barrier to his intention to carry out his plans.

Mr. RHODES. What plans? What are his plans?

The CHAIRMAN. What do you mean by his plans? That is the best question, I think.

Mr. HEAD. Well, I may say that he has this object of becoming the attorney of the Chippewas in Minnesota. That has been the whole contention of the fight the way I can figure it out.

Mr. KELLY. As I understand it, you say you don't want to be allotted?

Mr. HEAD. I would take an allotment when these things are completed as the department has planned out.

Mr. KELLY. You think that will be some years yet?

Mr. HEAD. It would not be very long if Congress gives us authority to do what we want. It would be in the course of four or five years.

Mr. RHODES. Are you in favor of this legislation proposed, or are you against it?

Mr. HEAD. This legislation here? I am opposed to it.

Mr. RHODES. Whom do you represent here?

Mr. HEAD. I am just like I stated here before. I came in under my own accord.

The CHAIRMAN. He has been a witness previous to this in the hearing.

Mr. SINCLAIR. You belong to the Red Lake Band of Indians?

Mr. HEAD. Yes, sir.

Mr. RHODES. Are you half blood, or less than half blood?

Mr. HEAD. Less than half blood.

Mr. RHODES. Then it is not a fact that it is only the full bloods who are opposing the management by the present council?

Mr. HEAD. No; it is not. It is unanimous against the present council having anything to do with the Red Lake Band of Indians.

The CHAIRMAN. By the so-called band of Red Lake Indians?

Mr. HEAD. Yes, sir.

Mr. HERNANDEZ. Then the Red Lake Indians have no representation in that council?

Mr. HEAD. No, sir; not for the last two years.

Mr. HERNANDEZ. They have a council of their own?

Mr. HEAD. We have a council of our own; yes, sir.

Mr. HERNANDEZ. This other council that Mr. McDonald represents?

Mr. HEAD. Yes, sir.

Mr. HERNANDEZ. That is your council, I take it?

Mr. HEAD. No, sir; we have a council of our own in Red Lake.

Mr. RHODES. What I am getting at, it is not a question of a fight between full bloods and the mixed bloods, so far as you are concerned?

The CHAIRMAN. So far as the Red Lakes are concerned?

Mr. HEAD. No.

The CHAIRMAN. Now whom do you understand Mr. McDonald represents here?

Mr. HEAD. I don't know anything about that, until he appeared here. I suppose that delegation they had between the Chippewas of Minnesota, and the other factions in Minnesota, in pursuit of the lawsuits. Mr. McDonald represented the full-blood faction.

The CHAIRMAN. Of the Red Lake Indians?

Mr. HEAD. No, sir; of the others.

The CHAIRMAN. Of all of the Indians? Of all the Chippewa Indians? He claims to represent, according to your understanding, the full-blood Chippewas, I take it?

Mr. HEAD. According to what I have heard; yes, sir. I think that closes my statement to the committee.

The CHAIRMAN. Now, Mr. Henderson, you have seven minutes, if you desire to make any statement on your own account.

STATEMENT OF MR. SAMUEL P. HENDERSON, WASHINGTON, D. C.

Mr. HENDERSON. Mr. Chairman, and gentlemen of the committee. seven minutes is rather a short period in which to cover the subject.

The CHAIRMAN. But the fact that you have only seven minutes is not entirely the fault of the committee. You could have had more time if you had asked for it.

Mr. HENDERSON. I would very much rather have had the time taken up by the witnesses than in making the statement myself. I will ask the Chairman, however, to allow me some liberty in the way of inserting a brief into the record if it is deemed desirable, or if I can add any information to the knowledge that the committee has gained during this hearing with reference to any matter.

The CHAIRMAN. You might state just whom you represent, Mr. Henderson:

Mr. HENDERSON. I represent the Red Lake Band of Chippewa Indians, of the State of Minnesota, under a contract made with the authorities of the band pursuant to council resolutions, which contract has been approved in accordance with the provisions of the act of Congress, sections 21.3, 4, 5, and 6 of the Revised Statutes.

Mr. Chairman, I think, in view of the prospects that there seem to be of legislation along certain lines, it would be undesirable to go very largely at this time into a statement of any questions that would have to be passed upon by the Court of Claims. For that reason, whatever I might like to say for the benefit of the committee, for the information of the committee, in regard to the title to the Red Lake Reservation, I would prefer to submit in a more carefully prepared short brief.

The CHAIRMAN. I would like to ask you a question. How can any legislation of an administrative kind that would be lasting, be enacted at this time, until the titles have been cleaned up? It seems to me there is in this whole matter a question which ought to be settled first. We can go on, as I have said a dozen times in this hearing, and create legislation here which will perhaps tend to straighten out some of the seeming inequalities, but it doesn't get you any nearer to a final adjustment of these matters until the question of rolls has been cleared up; until the question of lines, of different reservations are cleared up; and until we know who owns the land, so that it can be allotted. It seems to me that those are things which ought to be first cleared up. At present it doesn't seem to me that legislation can be created here at this time which will be much of any improvement over that which exists to-day.

Mr. HENDERSON. Mr. Chairman, in response to that inquiry I should say that there was serious danger of making the condition more difficult than it is at the present time by further legislation, except as to these three propositions; that the Red Lake band, in the interests of the Red Lake band and the Red Lake Reservation, should be excluded entirely from the other legislation. No matter, Mr. Chairman, who is at fault or whether anyone is at fault, the facts are that to-day the Red Lake Reservation stands apart from all the other Minnesota Chippewa Indian property so distinctly and is governed in such wise that it must be evident to everyone that it is not only to the interest of the Red Lake band to have themselves segregated, both as to their lands and funds from the rest of the Chippewas, but that it is the only practical way to accomplish anything that these gentlemen who represent the general council are seeking to do. I can not imagine, Mr. Chairman, a greater anomaly than for the general council of the Chippewas of Minnesota to want to have to do anything, much less to insist upon it, to want to have

anything to do with the affairs of the Red Lake band, both because of the condition of the title and the rights and the interest that the Red Lakes have in their properties, and because of the embarrassing position that it must put all of the gentlemen in to be legislating about property where the owners of the same, first, don't want them to have anything to do with it, and second, where their interests are diametrically opposed to the interests of the managers of the general council. I can not conceive why they should not be ready—and I suppose perhaps they are now ready when we come to consider the text of this bill—to say: "Yes, take the Red Lake Indians out to themselves and let us have a chance then to deal with the problems which is relieved of its worst complexity."

Now, Mr. Chairman, when we have time to get down to the consideration of the law, when we come to deal with these persons involved in the proposed legislation one by one, I am sure that a great deal of light can be thrown upon the difficulties that are in the mind of members of the committee. I am hearing that Mr. Kelly's inquiries with reference to the Red Lake situation can be met, perhaps more directly and much more fully than they have been up to the present time, and it will be a proper time to deal with that subject. If I venture upon it now it would take hours. It would lead off into side paths, side ways that it would take so long to discuss. I promise the committee that if we do have a hearing on this bill that the question of the proper interpretation of the act of 1889, so far as the Red Lake Indians are concerned, can be cleared up.

Mr. KELLY. I might just ask there in a word as a trained lawyer with a legal view of all these matters, are you convinced that the act of 1889 clearly gave special advantages to the Red Lakes aside from the other Chippewas?

Mr. HENDERSON. Thoroughly, Mr. Kelly. I am not only convinced by the qualifications which I do not wholly deserve, but convinced by 20 years of careful attention to the subject and association with and working for these people and of personal, intimate knowledge of them and with them on their reservations and here in Washington; and I simply desire to pass this subject with this suggestion, that an agreement with an Indian or with an Indian tribe, like an agreement with anybody else, is the mutual understanding between the parties and the rules of interpretation will apply equally to the agreement of 1889 with other agreements, and I pass the subject, as I say, with contenting myself with directly your attention to this fact: That we have the interpretation of the Red Lake Indians placed upon the agreement at the time it was made—I will only take a minute, Mr. Chairman.

The CHAIRMAN. You have only a minute left.

Mr. HENDERSON. We have the interpretation of the agreement passed upon by the other party to the contract, which was the commission; they have shown conclusively what interpretation they placed upon the agreement; we have the interpretation placed upon the agreement by the department, by the Secretary of the Interior, whose duty it was and who has all the facilities for determining that; and finally, gentlemen, and in conclusion, thanking you for your kindness, we have the interpretation of you gentlemen yourselves, the interpretation that Congress placed upon that agreement when they made the agreement of 1902 and the agreement of 1903 and passed the act of 1904.

(The written brief submitted by Mr. Henderson follows:)

**BRIEF OF RED LAKE BAND OF CHIPPEWA INDIANS ON H. R. 12972 AND H. R. 12973,
SIXTY-SIXTH CONGRESS, SECOND SESSION.**

The hearings before this committee on the legislation proposed in the bills above indicated have covered the general bill H. R. 12973 and the jurisdictional bill H. R. 12972.

THE GENERAL BILL.

The legislation embodied in this bill proposes to "wind up the affairs of the Chippewa Indians of Minnesota," in doing which two main purposes are sought, namely, (a) the further and final allotment of lands, immediately, among the unallotted Chippewas of Minnesota entitled to allotment, and (b) the per capita distribution, as speedily as possible, of all their tribal property held in trust by the Government, including surplus lands and the funds, principal and interest, arising, or to arise, under the act of January 14, 1889.

The specific purposes of the proposed legislation, summarized, are: To enroll and allot the members of the Red Lake Band; to add to the existing allotment rolls of the Chippewas of Minnesota and then to allot 160 acres, out of any reserved or undisposed of ceded lands, to each person so added to the roll; to have such allotments remain nontaxable for a given period; within six months after completion of the rolls to cause all individual funds standing to the credit of such enrolled persons to be paid to them, if competent, and, if incompetent, paid to parents or guardians in a manner therein set forth; automatically to pass fee simple title to allotments to competent enrollees; to adjudge certain persons competent and to possess such persons of all property held in trust for them by the United States; to issue patents in fee to all such persons; to require all conveyances of such allotted lands hereafter to be acknowledged before a United States commissioner or judge of a court of record; upon completion of all the rolls provided for in the bill, to distribute, at once, out of the trust funds arising under the act of January 14, 1889, the sum of \$300 to every person entitled to share in the distribution of that fund; to repeat such distribution as often as the trust fund will admit of a per capita payment of \$300, the payments to the competent ones being made direct, in cash, and for the incompetent ones the funds being transferred on the books of the Treasury of the United States to a special fund, but segregated and credited to them individually on the books of the Indian Office; to have all unpaid trust funds, whether segregated or not, continue, until paid, to draw interest at the rate of 5 per cent per annum, payments to be made to the legal guardians in cases where the parents or minors have died; in certain cases to divide the whole amount due into 10 payments, and in other cases into 20 payments, with the right reserved to the Commissioner of Indian Affairs to withhold payment from any parent or guardian who has misused or squandered the funds of the minors (sec. 1).

To dispose of all merchantable timber on any lands ceded under the act of January 14, 1889, and subsequently included in forest or other reserve, contrary to the intent of the act, paying to any allottee the value of the timber cut from his allotment; to have all lands heretofore ceded under the said act, and not disposed of according to its terms, together with any lands that may be recovered from the State of Minnesota, appraised at their true value, with the timber thereon, and upon completion of allotments, as authorized in the bill, sell such land and timber at public auction to the highest bidder, upon terms provided in the bill, and deposit the funds derived from such sale in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund (sec. 2).

To convey to the State of Minnesota, for public-school purposes (upon terms to be fixed by the Secretary), all school buildings and lands on which the same are situated, belonging to the Chippewas of Minnesota; to use so much of the one-fourth of the annual interest accruing on the principal funds intended for educational purposes as is necessary to provide proper school facilities for children of Indian parents, who reside on their allotments; to limit the amount so applied for any child to \$175 a year; to withdraw from the principal of the trust funds money for educational purposes, if the interest be not sufficient therefor, but not to exceed \$75,000 in one year; to make a detail report annually to Congress of the money so used for school purposes (sec. 3).

To establish town sites on the Red Lake and White Earth Reservations, and upon any land ceded under the act of January 14, 1889, that has not been otherwise disposed of; to have the same surveyed and platted; to appoint, at once, three members of a town site board; and to sell and have patents issued for town lots in the manner prescribed in the bill, reserving certain rights to any owners of improvement thereon, the proceeds to be placed to the credit of the Chippewas in Minnesota fund (sec. 4).

To make resurveys or new and additional surveys of Chippewa Indian lands in Minnesota, for the purpose of correcting errors in previous surveys, or establishing boundaries anew, and to transmit reports of such surveyors to the Court of Claims (sec. 6).

To provide necessary rules and regulations in strict conformity with the provision of the bill, for carrying it into effect (sec. 8).

To withdraw and use the sum of \$50,000, or so much thereof as may be necessary from the principal fund of the Chippewa Indians in Minnesota, to defray the administrative expenses of carrying out the provisions of the bill.

To aid in carrying the bill into effect, a commission is proposed, to perform the following duties:

1. To add to the existing allotment rolls of all the Chippewa Indians of Minnesota
2. To prepare the "Roll of incompetent allotted Minnesota Chippewa Indians," to include: (a) All minors, (b) all incompetent full-blood adults; and (c) all other incompetent adults of more than one-half Indian blood, allotted on the White Earth Reservation.

3. To prepare two other rolls to include the persons living on the date that the bill is enacted into law, who are unallotted, but entitled to share in the tribal funds arising under section 7 of the act of January 14, 1889, as follows:

First roll: Competents, embracing: (a) All adults of one-half or less Indian blood (b) all others (who may be) found competent to handle their shares of such funds.

Second roll: Incompetents, embracing: (a) All minors; (b) adults of more than one-half Indian blood, incompetent to handle their shares of the fund.

The bill confers upon the "General Council of the Chippewa Indians of Minnesota" the following authority:

1. To appoint one of the members of the commission above mentioned.
2. To appoint one-third of the number of appraisers required to determine and fix the value of the lands and timber to be sold under the terms of the bill.
3. To appoint one of the three members of the board to establish town sites on the several Chippewa Reservations in the State.
4. To appoint one of the two surveyors provided for in the bill, to resurvey land ceded by the Chippewas of Minnesota to the United States, to correct alleged mistakes made in the original surveys.
5. To expend for its own use and purposes an appropriation of \$15,000 a year for the period of five years out of the Chippewa in Minnesota trust fund.

DUTIES OF THE SECRETARY OF THE INTERIOR UNDER THE BILL.

Except that the President of the United States is to appoint one member of the commission, and is to issue patents for lots in any town sites established, the bill provides that the Secretary of the Interior shall perform the other functions required by its terms and not assigned to the commission or the "general council."

DIFFERENCE OF VIEWS DEVELOPED AT THE HEARINGS.

In the course of the hearing it is developed that the proponents of the legislation under consideration are officers of the so-called General Council of the Minnesota Chippewas; and that a large part of the Chippewa Indians of the State on the several reservations are strongly opposed, both to the legislation and to the authority assumed by the said council.

The Indian Bureau likewise has shown that it is firmly set in opposition to much that the proponents of the bills seek to accomplish by the legislation; and it appears that an agreement between the bureau and the proponents, on some questions at least, is unlikely.

VIEWS OF THE RED LAKE BAND.

The Red Lake Band ask that any legislation adopted at this time be so worded as to exclude expressly the members of this band from enrollment by the proposed commission for any purpose, and they further ask that section 7, as found on page 28 of the "committee print" of the bill, be retained as a part of any legislation enacted.

In so far as the separate rights and interests of the Red Lake Band are involved, the proposed legislation is deemed impossible; and as to the features purporting to apply alike to all the bands, the Red Lake Indians say that the scheme thus presented for "winding up the affairs of the Minnesota Chippewas" is premature, illogical, incomplete, and impracticable.

The Red Lake Band believe that until numerous legal questions involved in the act of January 14, 1889, and in the administration of the property of the Minnesota

Chippewas thereunder, have been settled, the legislation proposed would retard, rather than hasten, a final settlement of the affairs of the Minnesota Chippewas.

The Red Lake Band therefore ask that a broad and liberal jurisdictional bill, fair alike to all the respective bands, as well as to the interests of the Chippewas of Minnesota as a whole, be favorably reported by the committee, in order that the issues possible thereunder may be submitted to the Court of Claims, and final decisions had on the same, before further attempts are made "to wind up the affairs of the Chippewa Indians of Minnesota."

At the outset, it is observed that the proponents of the bill base their argument in its favor mainly upon the bare text of the act of January 14, 1889, which they insist upon treating as an exact agreement, notwithstanding the evident fact that, so far as the Red Lake Band, at least, is concerned, the act, by its express terms, rendered the suggestion of any agreement on the part of that band, in the true sense, an absurdity, affording, as it did, no discretion whatever to the band in the matter of accepting or rejecting terms. It was a travesty.

As a matter of fact, the Red Lake Band never did accept the terms of the act, as is abundantly shown by the minutes of the proceedings of the councils held with the Chippewa Commission, from June 28, 1889, to July 6, 1889; and as is further shown by the attitude of the successors to that commission, by the attitude of the other bands of Minnesota Chippewa Indians and by the attitude of the Interior Department and of Congress from 1889 down to the present time.

The Red Lake Band offer no objection to completion of allotment rolls of the several bands of Chippewas, and, at the proper time, will favor not only completion but correction of all Minnesota Chippewa allotment rolls. And thereafter, when the legal question involved as to what lands are available for allotment have been adjudicated, they will offer no objection to final allotment in accordance therewith.

Likewise, no objection will then be offered by the Red Lake Band to the segregation of individual funds and the payment thereof to the Indian or his parent or guardian; nor to the preparation of rolls that will distinguish the competent from the incompetent members of the several bands; nor to the per capita payments and distribution of all tribal funds that can legally be paid and distributed; nor to the issuance of fee simple patents to competent Indians requesting the same; nor to enforcing payment of interest authorized by law on all funds, tribal or individual; nor to maintaining at all times an efficient Indian school system on the several reservations in Minnesota, using therefor as large a part of the tribal funds as is legally available, and distributing the benefits as equitably as possible among the Minnesota Chippewas generally; nor to appropriate provision for the sale of remaining unallotted lands and merchantable timber thereon ceded to the United States under the act of January 14, 1889; nor to the recovery, for the benefit of the Chippewas of Minnesota, of the swamp lands within their reservations, or the value thereof, the same to be converted into their trust fund.

But in considering this legislation, the following points deserve careful consideration:

Making rolls: No allotment or other roll of any of the bands can be safely and satisfactorily made without the aid of the council of that band. In the nature of things, no safeguard against mistake in the enrollment of Indians is so great as the approval of the council of the band being enrolled. Such a roll, made under the direction of the council, and approved by the Secretary of the Interior, will leave little necessity for further revision, except such as may have to be made in individual cases by a court of competent jurisdiction, in passing upon legal questions that arise, such questions as an enrolling commission could not be expected to settle finally.

DISTRIBUTION OF THE PRINCIPAL OF THE TRUST FUND.

The Red Lake Indians seek to avoid the danger of having their interest in this fund complicated by further legislation at this time providing for distribution; but would welcome legislation segregating their proportionate share thereof, to the end that the same might be preserved for and ultimately enjoyed by the members of the band, as contemplated by the actual agreement of 1889.

"THE GENERAL COUNCIL."

With reference to the "general council," which occupies a prominent place in the proposed scheme of legislation, it is evident to all that, as at present constituted and operated, the institution falls far short of meeting the approval of the Chippewa Indians of the State. Some reference to true conditions with regard to the elements composing the whole body of Chippewa Indians of Minnesota may serve to explain.

On January 14, 1889, when the Nelson Act was passed, the Chippewa Indians of Minnesota comprised four main divisions, namely, the Lake Superior Chippewas, the Mississippi Chippewas, the Pillager Bands, and the Red Lake Band.

The Lake Superior Bands occupied three reservations in the northeastern part of the State, namely, Fond du Lac, Grand Portage, and Boise Fort or Nett Lake. The Pillager Bands occupied Leech Lake, Cass Lake, and Lake Winnibigoshish Reservations, besides which the Otter Tail Band of Pillagers occupied a part of the White Earth Reservation.

The Mississippi bands, originally including the Gull Lake, Mille Lac, Sandy Lake, Rabbit Lake, Rice Lake, and Pokagomin Lake Bands, for the most part were living on the White Earth Reservation. The Mille Lac Band, however, had remained at their old reservation on the shores of Mille Lac Lake, and the Pokagomin Lake Indians had remained at White Oak Point, near Leech Lake, and were known as the White Oak Point Band.

The Red Lake Band occupied its present reservation near the shores of Red Lake in the northwestern portion of the State.

It is to be observed that the commissioners in negotiating agreements under the act of January 14, 1889, dealt separately with these bands, as will appear from their report embodied in House Executive Document 247, Fifty-first Congress, first session.

It there appears that separate councils were held with, and separate cessions and relinquishments obtained from, the Red Lake Band; the Pembina Band, residing on the White Earth Reservation; the Pillager Bands of Leech Lake, Cass Lake, and Lake Winnibigoshish Reservation; the Otter Tail Pillager Band, residing on the White Earth Reservation; the Grand Portage Band; the Fond du Lac Band; the Boise Fort and Deer Creek Indians, residing on the Nett Lake Reservation; the Mille Lac Band; the White Oak Point Band (corresponding to the Pokagomin Lake Band of Mississippi Chippewas); and the four remaining Mississippi Bands, namely, Gull Lake, Sandy Lake, Rice Lake, and Rabbit Lake Bands, residing on the White Earth Reservation.

These several bands all had their separate interests and identity, with the exception of the four Mississippi Bands, above named, the Gull Lake, Sandy Lake, Rabbit Lake, and Rice Lake Bands, living together and acting in one council on the White Earth Reservation.

This will sufficiently explain, perhaps, what some of the witnesses at the hearings, representing the full-blood element, for lack of time failed to convey to the committee with reference to the majority representation among the Minnesota Chippewas in the organization of a general council of the Chippewas of the State, constituted as the present general council is.

The Red Lake Band, in 1913, participated, it is true, in the organization of a general council, and for several years was represented therein by delegates; but, finding that the organization was not truly representative of the Minnesota Chippewas as a whole, and moreover that the council was assuming the right to extend its jurisdiction outside of the common business interests of the Chippewas of Minnesota, and was undertaking to invade the jurisdiction of the councils of the separate bands, the Red Lake band, in 1918, withdrew from the general council, has not since that time been represented therein, and denies the right of the general council, so called, to speak or act for them in any respect.

SCHOOLS.

With reference to provisions contained in the bill relating to schools, school properties and the use of trust funds for educational purposes, the Red Lake band urges that no measures be adopted that will in any wise abridge or interfere with the present school facilities and advantages afforded the Red Lake Band. They believe that no part of the trust funds, paid to or used for the benefit of the band, has yielded as valuable returns as the money expended for educational purposes on the Red Lake Reservation.

TOWN SITES.

The Red Lake Band object to any legislation authorizing the location and establishment of town sites within the Red Lake Reservation until after such time as the lands shall have been allotted. There is at present one town site established under a special act of Congress, which is the terminus of the railroad leading into the reservation, and the Indians believe that the establishment of further town sites would be detrimental to their interest.

SURVEYS.

The Red Lake Band protest against the expenditure of the trust funds of the Chippewas of Minnesota for resurvey of the Chippewa lands. They believe that if occasion should arise for additional surveys or re-surveys of reservation lines, it will only be after suits have been instituted under legislation yet to be enacted, and that when such necessity arises therefor, it will be ample time to incur the heavy expenses incident to making new surveys.

ALLOTMENT TIMBER.

If allotments are yet to be made upon the Minnesota National Forest Reserve, the timber on such allotments should be cut and disposed of for the benefit of the general fund, and not sold and credited to the allottee. There will be ample agricultural land upon the reserves to meet all requirements of those who may be added to the allotment rolls, and there would be no justification for allowing timber allotments to be taken by a favored few.

THE \$5,000 ANNUAL APPROPRIATION.

The Red Lake Indians believe that they are united with a very large majority of the Minnesota Chippewa Indians in objecting to the \$5,000 annual appropriation sought by the representatives of the general council for their expenses.

THE RED LAKE TITLE.

The Red Lake Band own their diminished reservation free from valid claim by any other Indian tribe or band, in discussing which subject reference is made to plates 33 and 34 of Royce's cessions, the numbers thereon indicating the tracts referred to.

The pretended claim recently asserted at hearings before this honorable committee by the representative of the body denominating itself "The General Council of Minnesota Chippewas," clearly ignores the following facts:

The Indian title to all of northern Minnesota prior to July 29, 1837, was in Chippewa Indians.

On July 29, 1837, the Chippewa Nation ceded to the United States tract No. 242, Royce's cessions.

On August 21, 1847, the Pillager Band of Chippewa ceded to the United States tract No. 269, Royce's cessions.

On September 30, 1854, the Chippewa of Lake Superior and the Mississippi ceded to the United States tract No. 332, Royce's cessions, out of which tract there was reserved for two of the Lake Superior bands (the Fond du Lac and the Grand Portage) tracts Nos. 338 and 339, respectively.

On February 22, 1855, the Chippewa of Mississippi, of which there were six distinct bands, ceded to the United States tract No. 357, Royce's cessions, out of which there was set apart a separate reservation for each of the six bands, the same being Nos. 453, 454, 455, 456, and 457. By the same treaty three tracts within the boundaries of the cession were reserved for the Pillager and Lake Winnibigoshish Bands.

NOTE.—In this treaty the Chippewa of the Mississippi also cede "All interest they may have in Minnesota or elsewhere."

On October 2, 1863, the Red Lake and Pembina Bands of Chippewas ceded to the United States the tract No. 445, Royce's cessions, and retained tract No. 446 for their own reservation.

At this point attention is called to the following facts:

1. Up to this time the Red Lake Band had not participated in any Chippewa cessions of land to the United States, nor had they received any benefit from the United States or the other bands of Chippewas in the State.

2. None of the other bands of Chippewas joined with the Red Lake and Pembina Bands in the cession No. 445, and no interest in the reservation of No. 446 was assigned to any of the other bands.

3. Until the act of January 14, 1889, took effect, no other cession of land was made by the Red Lake Band to anyone, and no further reservation was made for the band; so that tract No. 446 remained the home and the sole and exclusive property of the Red Lake Band from 1863 down to 1889.

Meanwhile, on May 7, 1864, the Chippewa of the Mississippi, joining in a treaty with the Pillager and Lake Winnibigoshish Bands, ceded to the United States the six reservations set apart for them by the treaty of 1855, and in lieu thereof received tract No. 507, Royce's cessions.

On April 7, 1866, the Bois Fort Chippewas, one of the Lake Superior bands, ceded to the United States tract No. 482, it being then the only remaining unceded and unreserved land in the northern half of Minnesota. Under the same treaty there was set apart for the Bois Fort Band as reservations the two tracts No. 483 and No. 484.

On March 19, 1867, the Chippewa of the Mississippi ceded to the United States the two tracts marked 507 on Royce's cessions, and received in lieu thereof reservations No. 508 and No. 509, Royce's cessions.

Thereafter, and until 1889, there were only minor changes in the status of the reservation holdings of the several other bands of Chippewas, and none in the holdings of Red Lake Band.

On March 3, 1873, a township of land, tract 542, was purchased from the Mississippi Bands out of the White Earth Reservation (tract 509); on October 29, 1873, by Executive order, there was set apart as an addition to the Lake Winnibigoshish Reservation, Tract No. 549; on November 4, 1873, by Executive order, there was set apart as an addition to the Leech Lake Reservation tract No. 550; on May 26, 1874, by Executive order, there was set apart as an addition to Leech Lake Reservation tract No. 567; on March 18, 1879, by Executive order, there was set apart an addition to the White Earth Reservation tract No. 610 (being in two separate parts), which was by a later Executive order, July 13, 1883, restored to the public domain; on December 20, 1881, by Executive order, there was set apart a very small additional reserve for the Bois Fort Band, tract No. 629; on June 30, 1883, by Executive order, there was formerly set apart for the Bois Fort Band tract No. 484, which had been reserved under the treaty of April 7, 1866.

By way of preface to the consideration of the act of January 14, 1889, it may be said of northern Minnesota in those days that "there were giants in the land." The latter required for their growth and development vast quantities of pine timber for daily consumption.

The most valuable and expensive uncut pine timber in 1889 lay within the Chippewa reservations. There was a Federal statute which made it very inconvenient to remove such timber from the forest to the mills without express consent from the United States and the Indians. However, such removal was accomplished to a considerable extent. Especially was this true in the region of the Red Lake Reservation; and the Red Lake Indians were aware of that fact.

Accordingly, for several years prior to the act of January 14, 1889, there had been pronounced activity in efforts to secure such legislation by Congress as would make the Red Lake pine timber more easily available for the giant mills.

The Red Lake Band were Indians in fact as well as in name. To them the value of their reservation was actual, and when negotiations began for the acquisition of their pine they foresaw the danger of impending losses; the resistance they would offer to interference with their possession and ownership was patent to those who hoped to see their lands ceded and thrown upon to white settlers and their timber cut and sent to the mills.

On January 14, 1889, the act "An act for the relief and civilization of the Chippewa Indians of Minnesota" was passed. By the terms of the act the cession and relinquishment of Chippewa Indian lands therein provided for became valid and binding upon the Indians of the several reservations, if made and assented to in writing by two-thirds of the male adults of 18 years of age of the band or tribe of Indians occupying such reservations, except as to the Red Lake Reservation; as to the latter, it was not necessary to obtain the assent of any part of the Red Lake Band, because the act provided in effect that the Red Lake Reservation might be ceded by the assent of the other bands or tribes of Minnesota Chippewas, in the event the Red Lake Band did not give their assent, the extract provision being: "And as to the Red Lake Reservation, the cession and relinquishment shall be deemed sufficient, if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota."

The commission appointed to negotiate for the cession of the lands on the several reservations appealed to the Red Lake Band first. Councils were held with the Red Lake Band daily from June 29 to July 6, 1889. There is a report of these councils, so far as the same was made by the commission, published on pages 67 to 87, inclusive, of House Executive Document 247, Fifty-first Congress, first session. This document is available, and will doubtless be carefully read and considered by the committee in arriving at its conclusion with reference to the rights of the Red Lake Band of Indians in and to their present diminished reservation.

Comment upon the manner and methods employed by the commissioners in dealing with the Red Lake Band, is superfluous to anyone who reads the text of the minutes of the seven councils reported. The religious zeal with which the welfare and interest of the Indians was kept in mind throughout, the clear perception that the Indians showed of the real purpose of the negotiations, the efforts made by the mature and responsible members of the Red Lake Band to oppose and withstand the disregard of encroachment upon their rights, the tenacity with which they held on, as long as their endurance would allow, to at least the cardinal principles of self-protection on the major points involved, and the final inducements that were offered by the commissioners to overcome the opposition of the Red Lake Band, furnish food for thought, at a time when legislation is being proposed to "wind up the affairs of the Chippewa Indians of Minnesota."

In 1837, when the first Chippewa cession in the State of Minnesota was made to the United States, the Red Lake Band occupied the very land that is now their diminished

reservation, and have continuously occupied it ever since, independently and exclusively of the three Lake Superior Bands (Fond du Lac, Grand Portage, and Bois-Fort), the Pillager Bands (Otter Tail, Leech Lake, Cass Lake, and Lake Winnibigoshish) and the six Mississippi Bands (Gull Lake, Mille Lac, Rabbit Lake, Sandy Lakes, Rice Lake, and Pokagomin—or white Oak Point).

Prior to October 2, 1863, five vast cessions of and lying within the State of Minnesota were made by bands of Chippewa—the Pillager Bands, the Chippewa of Lake Superior and the Mississippi, and the Chippewa of the Mississippi, but in none of these did the Red Lake Band participate.

After October 2, 1863, three important cessions were made by the Chippewa of the Mississippi, the Pillagers, and the Bois Fort Bands, but in none of these did the Red Lake Band participate.

Between the date of the last treaty with the Mississippi Bands, March 19, 1867, and the act of January 14, 1889, there were numerous additions made by Executive order to the reservations of the Mississippi, and of the Pillager Bands, in none of which did the Red Lake Band participate.

In 1872 there was purchased from the Mississippi Bands residing on the White Earth Reservation a home for the Otter Tail Pillagers on that reservation; in 1873 a like purchase was made on the same reservation for the Pembina Band. The Red Lake Band participated in none of the proceeds of these sales.

The northern boundary of the Red Lake possessions in 1863 was Canada, the western boundary was a well-defined line far west of Minnesota.

The eastern boundary and a part of the southern boundary of the cession made in 1863 were the same lines used by the Mississippi Bands in the description of their northern and western boundary, eight years before, in their cession under the treaty of 1855.

So far as we can learn, no part of the annuities provided for the Mississippi Bands under the treaty of 1855 was ever claimed by the Red Lake Band; nor was any part of the annuities set apart for the Red Lake Band under the treaty of 1863 ever claimed by the Mississippi Bands.

So matters stood when the act of January 14, 1889, was submitted, translated, and interpreted to the Red Lake Band by the commissioners on the part of the United States sent to negotiate an agreement with the band, and when the band signed the agreement, under positive express promise that the diminished reservation then being set apart for them should thereafter belong exclusively to the Red Lake Indians.

It seems remarkable that during the 30 years since this agreement was made, in which time the Red Lake Band has, pursuant to legislation by Congress, been selling and disposing of much of its land and timber within the diminished reservation, no claim was suggested, until comparatively recently, by anyone that the Red Lake Band's ownership was not exclusive, and then that the claim should be put forth by those members of the Mississippi Bands in control of the "general council" organizations who have already received so largely from the general fund.

THE JURISDICTIONAL BILL.

As the Red Lake Band desire to submit an original and independent jurisdictional bill, and will offer such a measure as soon as the Red Lake Council have had opportunity to consider and agree upon it, the representative of the band on this point will advance this one suggestion, namely, that the Red Lake Indians are strongly in favor of legislation that will give the Court of Claims full jurisdiction to determine the rights, legal and equitable, of one and all of the bands of Minnesota Chippewas; but asks that such legislation leave each band free and independent to press its own claim, whether they be against the United States, the State of Minnesota, or against one or more of the other bands of Chippewas in the State; and that the legislation be so framed as to imply or impose no prejudice against any of the parties to the suits that may be instituted thereunder.

Respectfully submitted.

PETER GRAVES,

Delegate of the Red Lake Band.

DAN'L B. HENDERSON,

Attorney for the Red Lake Band.

The CHAIRMAN. Now, Mr. Ballinger, in closing the argument for your side, there is three-quarters of an hour left and I think it only fair that you should at least concede a little of that time to Mr. Meritt.

STATEMENT OF WEBSTER BALLINGER, WASHINGTON, D. C.

Mr. BALLINGER. Mr. Chairman, I am subject entirely to the desires of the committee.

The CHAIRMAN. I think if you have 30 minutes, we ought to give the commissioner 15 minutes.

Mr. BALLINGER. Mr. Chairman, we have had a morning and a half; Mr. Meritt took more time than we took.

The CHAIRMAN. Well, you took some of his time, too, you know.

Mr. BALLINGER. And then the others have followed. I leave the matter entirely with the committee.

The CHAIRMAN. I think it would be perfectly fair, and I think the rest of the committee would agree with me that if he has 30 minutes, Mr. Meritt, and you have 15 minutes to close, don't you think that sufficient?

Mr. RHODES. Yes; I think so.

The CHAIRMAN. Well, if that is understood, he can go ahead for 30 minutes and we will try and let him have his own way.

Mr. BALLINGER. Mr. Chairman and gentlemen of the committee, in the inception of this hearing the general council through me as its spokesman requested these gentlemen who have appeared before you to—during the course of their remarks before this committee—point out specifically and definitely any injurious provisions contained in this legislation. Up to this time, I have been able to ascertain but two objections, namely, first that the legislation deals with the Red Lake Reservation and they want the Red Lake Reservation let alone.

Second, some of them object, as they say, to the provisions of this legislation on the alleged ground that it will divest the department of the control of the Chippewa estate and put it in the hands of the general council. Now, Mr. Chairman, there is not a line in any bill that has been presented to this committee that divests the department of its jurisdiction or that confers that jurisdiction upon the general council. Let that be clearly and distinctly understood. The legislation does give the general council a minority representation, one out of three on some commissions to be appointed. The department has two-thirds of the membership of each commission so that the general council's representation will be wholly in the minority.

Now, Mr. Chairman, I want to come to this Red Lake situation squarely. I regret that the opposition has not met the issue squarely and meet a direct proposition with direct answer. In my opening remarks I laid down a definite proposition with reference to the Red Lake title, and I desire now in one or two minutes to restate that, and I shall pause at the proper time to see whether or not any man in this room controverts it, and if so, I will ask him to produce the evidence upon which he bases his contention. Under the treaty of 1854 the Chippewa Tribe divided. Those who went west were known as the Chippewas of the Mississippi. The cession of the western lands was to the Chippewas of the Mississippi. I read now, so that there can be no question about that, the cession provision of the first article:

The Chippewas of the Mississippi hereby assent and agree to the foregoing section and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof,

the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in the claim to the lands heretofore owned by them in common lying west of the above boundary line.

Now that put the title in the Chippewas of the Mississippi to all the lands in the then Territory of Minnesota and that title included the title to the lands on the present Red Lake Reservation.

I pause now, Mr. Chairman, and I inquire of Mr. Meritt, I inquire of Mr. McDonald, or of anyone else in this room to cite us to a provision of a treaty under which the Chippewas of the Mississippi ever ceded or relinquished the lands within the boundaries of the present Red Lake Reservation, except by the agreements of 1889?

Mr. MERITT. We will answer that statement at the proper time, Mr. Chairman.

Mr. McDONALD. Because of the fact that I will not be here later in the day, I desire to state that it is our contention that the territory involved in the Pembina treaty so called, and the territory involved in the Red Lake Reservation, the original reservation belonged to the band of Red Lake Indians. The Pembina Indians, and those bands were never considered by anybody as members of the Mississippi Chippewas, and they are not included in the treaty referred to by counsel. We also contend that the Red Lake Reservation was not a reservation; it was not reserved by the Government for the Chippewas; it was Indian territory and was the remnant of Indian territory, and is not created by any treaty or by any act of Congress. It was in the territory, and the diminished reservation is still Indian territory belonging to all Red Lake Indians.

Mr. BALLINGER. Every acre of the Red Lake Reservation was embraced in the cession under the treaty of 1854 to the Chippewas of the Mississippi. Now, Mr. Chairman, when Mr. McDonald read to you the treaty of 1855, 10 Statutes, 1165, he read to you from the first section and I am going to read to the point where he read and then stop there; and then I will read the balance to you. He read:

The Mississippi, Pillager, and Lake Winnibigoshish Bands of the Chippewa Indians hereby cede, sell, and convey to the United States all their rights, title, and interest in and to the lands, now owned and claimed by them in the Territory of Minnesota.

That is where he stopped. That would take all the lands within the State of Minnesota, but what follows:

and included in the following boundary.

Now, what was that cession? There it is, gentlemen, delineated in light blue [indicating on map]. Here is the territory that was not ceded, and the territory not ceded by the treaty of 1855 embraces the diminished Red Lake Reservation, the title to which was reserved in the Chippewas of the Mississippi, and they never relinquished their title to that. So it was when they came to deal with the Red Lake Band in 1889 they did not deal with it as a band; the Indians residing on the Red Lake Reservation were not even legally known as the Red Lake Band, but the Indians living there were made up from all the original Mississippi Chippewas, and the only reason that they were dealt with up there on the Red Lake Reservation separately was because they had settled there and they were living there. The agreement—and I read now from the official document—recites these facts: "We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and

belonging to the Red Lake Reservation"—of the tribes or bands. They came from all the bands of the Chippewas of the Mississippi.

Now, Mr. Chairman, just a bird's-eye view of this Red Lake Reservation, because if there is one thing that general council is determined to do, if it can, is to do something for these Red Lake Indians. It is conceded and has been conceded throughout that the Indians residing on the Red Lake Reservation are the most backward of all the Indians in all that country. They have been the pampered pets of the Indian Bureau, and it is conceded that they are less capable to-day of attending to their affairs than any other Indians in that country. Mr. Chairman, they have had paid to them under that act of 1904 and other acts nearly two millions of dollars from the sale of lands, timber, and other property. That to-day constitutes a claim against the United States on the part of the Chippewas of Minnesota. The department originated that legislation; they transmitted it to Congress, and the Indian Bureau by so doing created a claim against the United States to-day of nearly \$2,000,000 which, in my judgment, the United States must eventually pay out of the Public Treasury.

Now, what are they proposing to do here? I was amazed to learn that the Indian Bureau is behind this drainage proposition. They propose now to hold the funds derived from the sale of timber on the Red Lake Reservation and to use those funds in draining the rest of the Red Lake Reservation and handing over to the Indians, I presume, an allotment ready to stick the plow into. No other Indian had his land handed to him in that condition.

Mr. Chairman, they propose to denude the land of the timber and hand him a stump allotment, so that when he gets it it will cost him fifty to one hundred dollars an acre to grub the stumps and clear it. Do they propose to use these funds in clearing the stumps and hand him an allotment ready for cultivation? If they do not do that, they are skinning the Red Lake Indians, because they will hand him an allotment which, instead of being worth from two thousand to six or seven thousand dollars with the timber on it, will be worth from three hundred dollars to eight hundred, with the timber removed, and that is the way they propose to protect the Red Lake Indians.

Mr. Chairman, if they use these funds as they propose to do they are going to create another claim against the United States, because those funds belong to the Chippewas of Minnesota and not to the Red Lake Band.

Now, a bird's-eye view of that reservation. There are, I believe, 460,000 acres within that Red Lake Reservation. There are about 1,500 Indians residing on it. I hold in my hand the official report of the Commissioner of Indian Affairs for the last fiscal year. Out of the 460,000 acres on the Red Lake Reservation there was in cultivation, including the agency farm, last year 1,850 acres. The rest of that land has laid idle since the commencement of man. That reservation laid idle and the grass rotted upon it when the cattle were dying in the greater portion of the northwestern area last year, and not a dollar of revenue came in to any Indian from it, and yet the department proposes to continue that kind of administration. If it had conducted this as a business proposition, it should have realized from grazing and other permits alone an annual revenue of from \$300,000 to \$600,000 a year, and that is what they say they are doing for these Red Lake Indians and for the Indians in Minnesota.

Mr. Chairman, they have referred to the beautiful little homes on the Red Lake Reservation. I had heard about them. Last July I was on the Red Lake Reservation and went over it to see these beautiful homes. You will find little cabins with one and two rooms, log shacks, in which these people are living, notwithstanding that since 1904 they have been receiving annually per capita payments through this department of from \$38. to \$100 for every man, woman, and child. No other Chippewa received it, and yet they are to-day living in a state which you gentlemen would not tolerate if you could see it. There is no agriculture, no development. The very man who appeared before you to-day, Peter Graves, a grandfather, doesn't spend his time in useful industry. He is not a farmer, he spends his time in idleness, and he would have you continue this condition. Why? Because if you continue it they hope to take the proceeds and divide them per capita among the Red Lakes of the funds received from the sale of future property, which will amount to some four or five million dollars, and create another claim against the United States, just as they created it under the act of 1904.

Now, Mr. Chairman, Mr. Meritt told you that when an Indian left the reservation he did not lose his rights, nor did his children lose their rights. I propose to give you the names of some of them that lost property rights by removing from that reservation. The Indian Bureau has held that where an Indian left the reservation and moved off and a child was thereafter born to that Indian, the child was not entitled to share in the property of the reservation, because it was born off the reservation.

Mr. RHODES. Is that an exceptional case, or is that the rule?

Mr. BALLINGER. That has been the rule, and I am going to give you the names of the parents of children who have lost their payments during these years. Mrs. Foy, an enrolled member of the Red Lake band, some years ago moved to a point about 4 or 5 miles east of the east boundary of the reservation. The Indian Bureau has refused to enroll her children born since her removal.

Mrs. Leslin and Mrs. Brown, both enrolled members of the Red Lake band, removed from the Red Lake Reservation in order to better their condition--I overlooked Mrs. Leslin. Her children are in exactly the same fix.

Here are the names of the minor children of the Browns, born in 1906, 1910, 1912, and 1913, that have failed to participate in these payments because they were born off the reservation, and I want that list inserted in the record.

The paper referred to follows:

Melvina A. Brown, born November 15, 1906.

Earl C. Brown, born January 23, 1910.

Eva I. Brown, born January 9, 1912.

Ruth L. Brown, born January 13, 1913.

Now, Mr. Chairman, that statement was made here the other day, without an opportunity for me to check it back on the local office at Red Lake. Had I the time I could produce before this committee, I have no doubt, a long list of Indians who have lost their rights because they dared to go off the reservation, and the Indian Office ought to know these facts, and it ought to be square and fair enough with this committee to come forward and admit it. I hate subterfuge.

Now, Mr. Chairman, I want to deal for just a moment with this question of the rights of the Beaulieu and Fairbanks and the other mixed bloods to participate in the distribution of the property of the Chippewa Indians. That seems to be the main grudge. It is an old controversy, as old as the hill, but like Banquo's ghost it will not down. They are still harping, "On, me daughter." The shrewd individual, and you have seen some of them before this committee—use that argument to appeal to the old and ignorant. That is their weapon. They can find no valid fault with anything the general council does, but they dig up these old things to stir up the ignorant and poor Indian—that is, the ration Indian—and that class—and it is these shrewd, ambitious men that the general council has been compelled to fight to a finish.

Now, let us take the propositions that they have handed down to you on which they base their claim that these parties gave up their rights under article 2, section 7 of the treaty of 1854, 10 Statutes, 1109. Now, under that article—I will state it so as to save my time—that article provided that any mixed blood of the Lake Superiors who desired to take an allotment could take 80 acres of land. That is the provision. I will insert the exact provision in my remarks.

The matter referred to follows:

ART. 2. Seventh. Each head of a family, or single person over twenty-one years of age at the present time of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

It will be observed that there was no provision in the above article excluding any person who took an allotment from further participation in the tribal property or from membership.

Instead of making allotments to the Indians, the department made a mistake, like many mistakes have been made, and they issued scrip, land scrip, in lieu of allotments. That land scrip was passed indiscriminately out by their own agents and by the agents of the land office in that country to such an extent that it became a public and national scandal, a commissioner of the General Land Office being involved in the transaction. Instead of them handing the scrip to the Indian it was issued in the name of the Indian and passed out to white men, and in many instances scrip was issued in the name of the Indian and neither the Indian nor any person connected with the Indian ever saw or heard or knew of it.

Now, what happened? In 1889, when they came to negotiate the agreement with the Chippewa Indians of Minnesota, the rolls were made by the commission and then submitted to the Indians themselves, to their chiefs, and by their chiefs and their head men in council ratified. I read now—for this matter has been adjudicated both by the Court of Claims and by the department—and I read now from the statement of fact appearing in the statement of fact of the Court of Claims, dated December 21, 1914, in the case known as Departmental No. 158, in the matter of the petition of Charles P. Wright et al., for the purification of the White Earth rolls. The court went into this matter exhaustively. I am the man who filed the motion to dismiss, and the court sustained my motion. Neither the court had jurisdiction nor was there equity in the complaint

filed. I read now from the finding of fact by the court. The court quoted from the record of the commission as follows:

Mr. RICE. We must meet again as soon as we can to look over the rolls and see that they are correct, to enable you to go home. There will be to-night a double issue of flour, but we hope that before you leave you will come in to compare the roll, as that is very important. The chiefs should be here for that purpose. (P. 116 of the record of this commission.)

Mr. RICE. This act covers that point as well as all others that could possibly be foreseen. If there are names on this roll which should not be there, please let us know, and if there are any names which should be there and are not, please inform us so that the roll may be corrected.

The census rolls were then carefully read over to the Indians present at the council, which was largely attended.

Mr. RICE. The census rolls have been carefully read to you and corrected, and we wish to know whether as so corrected they are satisfactory to you.

To this question the Indians responded. "Yes, yes," and all expressed themselves as perfectly satisfied.

Now, Mr. Chairman, if prior to the agreement of 1889 there had been a question as to right of the Fairbanks, of the Beaulieus, and of these other mixed bloods to be on the rolls, the assent of the Indians at that time forever foreclosed anyone from making an objection. That is fundamental law. Notwithstanding the Court of Claims has decided the question in favor of both the Beaulieus and the Fairbanks and the department, the Court of Claims twice decided it, the first time in their favor, again upon a motion for rehearing or re-reference they decided in their favor, and then they took it back into the department and tried to get the department to assume jurisdiction, and the department decided it against them and in favor of the Fairbanks and Beaulieus, yet they come in here, and a good part of the time of this committee has been taken up by such men as Caswell, and others, telling you about how these people were improperly on the roll and how they were attempting to dominate and control the Chippewas, the real Chippewas in that country. Why, these men are of Chippewa blood. The only difference between them and many of the others is that they come from distinguished ancestry on their father's side. Ben Fairbanks is from the same Fairbanks family from whence came Vice President Fairbanks. The Beaulieus come from a distinguished French-Canadian family. They are men of courage; they are men of ability; they are men of brains; they are men of integrity. As a business proposition, Mr. Chairman, those men are not personally interested in this estate from a financial standpoint. Every one of them are losing more from being here at this session of Congress than they will ever get out of the estate. They are all men of business affairs, but they have come here for the purpose, if possible, of doing something for their own blood—a laudable undertaking. That is their object.

Mr. Chairman, the other day when I was before this committee, I submitted to you certain statements taken from the official figures contained in that book [indicating], the annual report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919. When Mr. Meritt came to reply he referred to the misstatements that I have made, but when he came to give you figures he did not deal with those figures; he brought in a new set of figures and presented them to the committee. That was not fair, Mr. Meritt, to say that I had made misstatements of fact when that book contains exactly what I told you. Those are the figures upon which you have been

coming to Congress and getting your annual appropriations, and God knows if they were good enough for the bureau to come here and get annual appropriations on out of trust funds, they ought to be good enough for me to cite at this hearing. When you take a look at the Indian Bureau it is like looking into a kaleidoscope; now you see one scene and then instantly the scenes are shifted on you.

I reaffirm, Mr. Chairman, every statement of fact that I made to this committee in my opening statement. I have no objection in deceiving you. The very life of a lawyer is his reputation for honesty and accurate statement. When that is gone there is nothing left, and I pity the man who goes before the court or comes before a tribunal and undertakes to resort to camouflage and to covering up. If he has got a case, let him state it; if he has not, let him like a man say so.

Now, Mr. Chairman, I notice that my time has almost expired.

The CHAIRMAN. It has expired.

Mr. BALLINGER. I haven't had an opportunity to cover a lot of stuff that has been put into this record that has no relation, Mr. Chairman, in my judgment, to the matters that you have under consideration; but, Mr. Chairman, this record will be sent out to the Chippewa country; appeals will be made to the Indians out there based on statements appearing in this record, and I ask the privilege when these statements are filed, of looking over them and filing such reply, based upon the official records, as may appear proper.

The CHAIRMAN. You will have that right unless there is objection.

Mr. MERITT. Mr. Chairman, may we have served upon us any statement that Mr. Ballinger proposes to incorporate in the record?

Mr. BALLINGER. I would not file one with the committee without doing it.

Mr. MERITT. So that we may have an opportunity to file an answer?

The CHAIRMAN. Mr. Ballinger says he will file a copy of it.

Mr. BALLINGER. I will serve it upon them or anyone else in this room who desires it.

Mr. RHODES. Mr. Chairman, just one question. Mr. Ballinger made a statement here in the form of a challenge with regard to certain matters with which Mr. Meritt and Mr. McDonald both took issue but Mr. Henderson remained silent. I want to ask Mr. Henderson if he acquiesces—if his silence indicates that he acquiesces in what Mr. Ballinger has said?

Mr. HENDERSON. It does not at all, Mr. Chairman. On the contrary, I take exactly the opposite view from Mr. Ballinger as to the rights of the Red Lake Indians.

(Mr. Ballinger's written statement follows:)

RECAPITULATION BY WEBSTER BALLINGER, ATTORNEY FOR THE GENERAL COUNCIL OF THE CHIPPEWA INDIANS OF MINNESOTA.

THE NECESSITY FOR THE LEGISLATION.

Thirty-one years have now passed since the United States entered into agreements with the Chippewa Indians of Minnesota under the act of January 14, 1889 (25 Stats. 642), for the allotment "as soon as practicable" of lands to each member of the tribe, the cession of all reservations, except sufficient lands on the White Earth and Red Lake Reservations to make the allotments to the Indians entitled thereto, to the United States in trust to be sold and disposed of and the proceeds derived therefrom to be placed in the Treasury of the United States to the "credit of all the Chippewa Indians of Minnesota."

During these 31 years not an allotment has been made to an Indian residing on the Red Lake Reservation, notwithstanding the act of January 14, 1889, as agreed to by the Indians, provided that allotments should be made to them "as soon as practicable" and authorized the Secretary of the Interior in any case where an Indian failed or refused to take an allotment within four years to arbitrarily make the allotment.

To-day four reservations, viz. Fond du Lac, Grand Portage, Leech Lake, and Net Lake, are retained intact, notwithstanding each of these reservations were ceded in 1889 to the United States to be sold and disposed of and have never had any legal existence since the date of the cession. The unallotted lands within their borders have during all these years remained idle and unproductive. Upon each of these four reservations the department has, contrary to law, maintained agencies, and great numbers of agency employees. These agencies thus illegally maintained for 31 years, have been supported out of the trust funds of the Indians at an annual cost of \$75,000.

Between 400,000 and 500,000 acres of the lands ceded to the United States in trust in 1889 to be sold and disposed of for the benefit of the Indians, were placed in the Minnesota National Forest Reserve and locked up pursuant to an act of Congress in violation of the agreements of 1889. Although the forest reserve properly includes less than 200,000 acres, its boundaries extend around more than 400,000 acres. Upon this reserve there remains less than 100,000,000 feet of timber to be cut. Reforestation can not occur in 100 years. Much of this land is as rich as any land in the State of Minnesota. It is to-day all locked up in a useless forest reserve, contrary to the agreements entered into with the Indians in 1889, under which the lands and timber were to be sold and the proceeds placed in the Treasury of the United States to the credit of the Indians. About 390 Indians were allotted on lands subsequently included within the limits of this reserve. Their allotments were thereby rendered valueless. They are inaccessible. The Indians can not use them to advantage. They are far removed from schools. These Indians, by reason of the illegal establishment of this useless forest reserve, have become a charge upon the Chippewa Tribe, and trust funds of the tribe are being used annually to support them. The legislation proposed by the general council will wipe this forest reserve out of existence.

The Red Lake Reservation, consisting of about 460,000 acres, has remained idle for 31 years. About 1,500 Indians reside on this reservation. Last year, according to the annual report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919 (p. 127), only 1,850 acres, including the agency farm, out of the 460,000 acres on the reservation, were in cultivation. Practically the entire reservation is to-day, and has for 31 years remained idle and unproductive, notwithstanding from grazing privileges alone it could have produced more than \$250,000 annually, or during the 31 years, \$7,750,000. While cattle were starving last year in Idaho, Montana, and other Western States, the grass on this reservation, sufficient to have fed 150,000 head of cattle, was allowed to rot. The allotments on this reservation were to have been made 31 years ago, and the residue of the lands sold and disposed of and the proceeds placed in the Treasury to the credit of all the Chippewa Indians of Minnesota.

Between 700,000 and 1,400,000 acres of land ceded to the United States under the agreements of 1889 to be sold and disposed of and the proceeds placed in the Treasury of the United States to the credit of all the Chippewa Indians of Minnesota, have been either patented to the State of Minnesota or have been applied for by the State of Minnesota, upon the theory that the State was entitled to the land under the swamp-land donation act of 1860. It is now conceded by the department that the issuance of the patents to the State for the land already patented was a mistake, and that the State was never entitled to an acre of this land. It is necessary that suit should be brought without delay to recover back the land patented to the State and undisposed of by the State, to recover from the State the proceeds derived from the sale of the land conveyed to the State and by the State sold, as well as to settle for all time the right of the State to the lands it has applied for and which have not been patented. Unless this suit is authorized without delay these lands will pass beyond recovery, and the United States must then pay the Indians therefor, which would aggregate from 5 to 10 million dollars. Comparatively little of this land patented to the State has been by the State sold. The majority of it is to-day lying idle and unproductive, as it has for 31 years. Much of it is as rich land as there is in the State of Minnesota, and with but slight draining can be made as valuable farming land as is within the limits of the State.

Probably a half million acres of land ceded to the United States in trust under the agreements of 1889 and not embraced in any reserve or within the lands claimed by the State remains undisposed of.

Thus approximately 2,000,000 acres of land ceded to the United States in 1889 to be sold and disposed of for the benefit of the Indians to-day remains idle and unproductive solely as the result of the failure on the part of the Indian Bureau to carry out the agreements of 1889. Not an acre of this land is subject to taxation by the State or

county. Not a dollar of income is being derived by anyone from it. The holding of this land, in violation of the agreements of 1889, has prevented settlement, the establishment of schools, roads, drainage districts, and every kind and nature of development. The bill as proposed by the general council will dispose of this land, resulting in its development and the consequent advantages to the Indians, the State, and the Nation.

Notwithstanding the agreements entered into in 1889 provided for the immediate allotment of so much of the lands on the Red Lake Reservation as were required to make allotments to Indians residing on that reservation and the sale and disposition of the remaining lands, the department failed or refused to make any allotments on this reservation. In 1902 the white people living at Thief River Falls and around the southwestern corner of the reservation sought to have 256,152 acres of the land thrown open to entry. Under the agreement of 1889 all that was necessary to effectuate this purpose was to allot the Indians residing on the Red Lake Reservation and automatically the land remaining unallotted became subject to homestead entry. Instead of making the allotments, the Indian Bureau sent a representative to the Red Lake Reservation to negotiate with the Red Lake Indians for the sale and disposition of 256,152 acres of the land embraced within the reserve. The Red Lake Band had only an interest in common in this property the same as all other members of the Chippewa Tribe in Minnesota. They had no right legally or morally to make such a cession.

The representative went to the Red Lake Reservation and negotiated an agreement with the Red Lake Band exclusively for the cession of the 256,152 acres, none of the other Chippewa Indians being consulted. Upon the land to be ceded a part of the Indians were then living. The 256,152 acres comprised the best land on the reservation for allotment purposes. In order to induce the Red Lake Band to enter into this dishonorable agreement, the Indian Bureau agreed that the entire amount of \$1,000,000 to be paid for the lands ceded should be paid to the Red Lake Indians alone to the exclusion of all the Chippewa Indians of Minnesota, the rightful beneficiaries. It was further agreed that the Red Lake Indians should possess the remainder of the reservation exclusively, and that they should be entitled to allotments of 160 acres of land, twice the amount provided for in the agreement of 1889. This enticing bait appealed to the Red Lake Indians, who knew at the time it was wrong. They entered into this agreement in the belief that it would repeal their agreement of 1889. The Indian Bureau submitted the agreement to Congress and it was included in the Indian appropriation bill approved March 3, 1903 (32 Stats. L., pp. 1010-1011), in modified form, the modification consisting of this: The agreement negotiated by the representatives of the Indian Office provided for a cash payment of \$1,000,000. The provision contained in the act of March 3, 1903, provided that the land should be disposed of at not less than \$4.50 per acre, the proceeds to be paid to the Red Lake Band. The provision contained in the appropriation bill of March 3, 1903, provided that it should not become effective unless ratified by the Red Lake Indians. This was submitted to the Indians and by them rejected on the stated ground that if this land was to be sold and disposed of as the Government was selling and disposing of the land ceded under the agreements of 1889 they would receive practically nothing for the cession. After its rejection by the Red Lake Indians the same provision was inserted in the act of February 20, 1904 (33 Stats., 48-50), and enacted as a law. Approximately \$1,300,000 was received from the disposition of this land, and the entire proceeds were paid to the Indians residing on the Red Lake Reservation, to the exclusion of the other Chippewas of Minnesota, who were owners in common with the Red Lakes of the land. Here the Indian Bureau created a valid claim against the United States for \$1,100,000, representing the amount the other Chippewas were entitled to receive, which the United States must sooner or later pay.

In 1916 a member of the Minnesota delegation introduced a bill in Congress, drafted or inspired by an employee of the Indian Bureau in Minnesota, and providing for the establishment of a forest reserve on the Red Lake Reservation. This bill was drawn in the interests of a lumber company. It was designed and intended to reach the stands of valuable timber on the Red Lake Reservation. It was a sugar-coated proposition. The Indian Bureau promptly fell for the scheme, and it was supported by a distinguished member of the Minnesota delegation, who, placing reliance in the representations of the Indian Bureau that it was designed and intended to perpetuate the primeval pine forest of Minnesota, introduced and secured the passage of the legislation. The provision is found in the Indian appropriation bill approved May 18, 1916 (39 Stats. L., 137), the place where vicious Indian legislation is usually secured. Mr. Meritt disclaimed on behalf of the Indian Bureau authorship of this provision. The cold record shows that a bill was introduced, referred to the Indian Bureau for report, and that the Indian Bureau revised the bill as introduced and recommended the legislation in the revised form. (See Cong. Record, vol. 53, part

14, p. 1101.) Notwithstanding Congressman Chipperfield went before the committee having the bill under consideration and pointed out that its objects were to permit the very scheme later pulled off, the Indian Bureau urged the legislation. (Cong. Record, vol. 53, part 14, p. 1101-1104.)

About a year after the enactment of this provision the department entered into a contract with the International Lumber Co. to cut all the merchantable timber within practically the entire limits of the forest reservation. By this legislation the lumber company was able to make one contract. If the land had been allotted as provided by the agreement of 1889, the company must of necessity have dealt with each allottee. An advantageous contract was obtained by the company and all the merchantable timber on the greater portion of the forest reserve is now being cut. The proceeds derived from this timber are being placed in the Treasury of the United States to the credit of the Red Lake Indians. The Red Lake Indians are not the owners of the fund. The fund belongs to all the Chippewa Indians in Minnesota. If this money should be disbursed to the Red Lake Indians, as they are demanding it shall be, a claim aggregating several million dollars will accrue against the United States. If the legislation proposed by the general council is adopted this question will go to the Court of Claims, will be by the courts decided, and the money will follow the judgment, thus holding the United States harmless.

Under section 7 of the act of 1889 (25 Stat., 642) only the net proceeds derived from the sale and disposition of the property ceded to the United States were to be placed in the Treasury to the credit of all the Chippewa Indians, the expenses of administration to be first deducted. The statement furnished me by the Secretary of the Treasury and appearing in the record of this hearing shows that there have been deposited in the Treasury \$13,472,766.18. This does not represent all the money received from the sale of property. It represents a part only of the expenses of administration, for during the early years of the operation there were no funds in hand and it was necessary for Congress to make appropriations out of the Public Treasury with which to conduct the work, each appropriation being made reimbursable.

The Indian Bureau has refused to furnish the general council of the Chippewa Indians of Minnesota a complete statement of the moneys received from the sale of property, and the total cost of operations. The official statement from the Secretary shows that out of \$13,472,766.18 there have been expended \$7,636,040.57. Of the amount expended, about \$1,500,000 was paid to the Indians in a per capita payment pursuant to the provision contained in the act of May 18, 1916. Only incidental benefits have been received by the Indians from the more than \$6,000,000 that were placed in the Treasury of the United States and expended by the Indian Bureau. These six millions of dollars represent only a part of the cost of administration. It can not be pleaded by the Indian Bureau that any considerable part of this money has been properly used for educational purposes, for by section 7 of the act of 1889 one-fourth of the interest money was set aside to be used exclusively for school purposes, and beyond this amount the Indian Bureau had no lawful right to go. A limited amount of this six millions of dollars, probably \$500,000 in all, was used by the Indian Bureau for school purposes, but if practical business methods had been applied to the schools maintained by the Indian Bureau, the interest money alone would have been abundant. The great majority of this \$6,000,000 has been squandered in the most reckless administration known to even Indian estates, and if permitted to continue would exhaust the fund in a few years.

For years the Indian Bureau has been going to Congress and securing appropriations for alleged support and civilization of 12,000 Indians. As a matter of fact, not 10 per cent of the adult Chippewa Indians are to-day, nor have they been in the last 30 years, within the class that needs any support and civilization at the hands of the Indian Bureau. These appropriations thus obtained have been squandered in the maintenance of large armies of Indian Bureau employees in Minnesota who have been the direct beneficiaries, the Indians receiving only incidental benefits.

During the course of the hearing Mr. Meritt, Assistant Commissioner of Indian Affairs, referred to statements made by counsel for the general council as "extragant." Mr. Meritt has never been on a Chippewa Reservation in Minnesota. Only two Commissioners of Indian Affairs in 31 years have visited the Chippewa country, and they went there years ago on special missions and never took the time to inquire into general conditions. The statements made by Mr. Meritt are based upon reports of the bureau agents in Minnesota. These men are anxious to perpetuate their jobs. They care nothing about holding 12,000 human beings in a state of virtual servitude and tying up over two million acres of land, so long as they can perpetuate their jobs and draw their salaries. If Mr. Meritt had taken the trouble to have gone to Minne-

sota and personally looked into the situation he would not have tolerated the extravagant waste of trust funds that have occurred in the past. No honest man of good judgment could have tolerated such conditions.

If the bill as proposed by the general council of the Chippewa Indians of Minnesota is enacted into law—

(a) It will release the United States from apparently valid claims against it arising from the establishment of forest reserves and the maintenance of Indian reservations aggregating from \$5,000,000 to \$8,000,000. (See sec. 2 of the bill.)

(b) It will enable the Indians to receive the market value of their remaining lands thus securing for the Indians the amount of the claims they would waive against the United States over and above the amount they would receive for the sale of the property under existing law.

(c) It will save the United States from \$10,000,000 to \$16,000,000 in claims that will certainly accrue against it unless prompt action is taken, viz. from four to six million dollars on the Red Lake Reservation, and from six to ten million dollars in land conveyed and about to be conveyed to the State of Minnesota, admittedly contrary to the trust agreement of 1889.

(d) It will immediately liberate all competent Indians and discharge them from any further supervision or control at the hands of the Indian Bureau.

(e) It will continue the restrictions upon the allotments of all incompetent Indians, but give them their funds at stated times in annual partial payments, for their support.

(f) It will dispose of more than 2,000,000 acres of virgin land now remaining idle and unproductive, rendering the same productive and taxable.

(g) It will conserve the property of the Chippewa Indians of Minnesota for the Indians themselves.

(h) It will provide suitable public school facilities for every Indian child.

(i) It will adjust and compose every controversy between the Indians and the United States or between the Indians.

(j) It will result in winding up within the five or six years the tribal affairs of the Chippewa Indians of Minnesota and discharge them.

(k) It will result in a blessing to the Indians, the people of Minnesota, and of the Nation.

(Following is an additional statement of Edgar B. Meritt, Assistant Commissioner of Indian Affairs, in answer to the brief of Attorney Webster Ballinger.)

1. I will not take the time to answer in detail all of the statements made by Mr. Ballinger, inasmuch as I have answered most of those statements in my oral argument before the committee. The fact that all of the statements of Mr. Ballinger are not answered specifically should not be construed as admitting the correctness of his statements. As was shown in the hearing, a large number of the statements of Mr. Ballinger are greatly exaggerated, and some of them have no basis in fact or in law.

2. The department favors the Chippewa Indians being permitted to go to the Court of Claims and having their claims against the Government adjudicated. The jurisdictional bill, however, should be in proper form so that the interests of all the Indians and the Government would be fully protected. It is apparent that Mr. Ballinger is endeavoring to get legislation so worded that it would be unfair to the Red Lake Indians and would place an undue burden upon them as well as the Government. We have submitted a draft of legislation which would authorize the claims of the Chippewa Indians to be adjudicated and which would be fair to all interests. We favor the legislation submitted by the department, but are opposed to the amendments proposed by Mr. Ballinger.

3. We are also in favor of legislation that would wind up the affairs of the Chippewa Indians at the earliest practicable date and we have submitted to the committee a draft of legislation with that end in view. Mr. Ballinger has suggested certain amendments to this legislation that would be unfair to the Red Lake Indians and we are opposed to those amendments.

4. I reiterate my statement before the committee—that the Indian Office did not initiate the legislation contained in the act of May 18, 1916 (39 Stat., 123-136), creating the forest reserve on the Red Lake Reservation. That legislation was initiated by a Member of Congress from the State of Minnesota, and was sent to the department for report. This statement of the facts can be confirmed by the records of Congress. The legislation has resulted in good to the Red Lake Indians and we have no criticism to make of this legislation enacted by Congress. It had enabled the department to sell the timber on the Red Lake Reservation at a very high price and

the interests of the Red Lake Indians have been fully protected. The Red Lake Indians have no complaint to make in regard to this legislation and the only criticisms made of it are by the White Earth Indians. This legislation prevented certain timber interests of Minnesota from getting the timber on this reservation from the Indians for an inadequate price, as was done on the White Earth Reservation.

5. We have made clear to the committee the reason why allotments have not been made on the Red Lake Reservation. It has been entirely impracticable to make allotments on that reservation for the reason that a large part of the reservation needs to be drained and legislation is now pending before Congress with that end in view; also a part of the land contains very valuable timber and if this timber land were allotted before the sale of the timber the Indians who received timber allotments would get more than their pro rata share of the property of the Red Lake Reservation. The Red Lake Indians are entirely satisfied with the manner in which we have handled their property. They have protested against allotments being made until the timber could be sold and the land drained. The attitude of the White Earth Indians in endeavoring to control the property of the Red Lake Indians should, to say the least, not be encouraged by allowing them to procure the enactment of the legislation they desire over the protests of the Red Lake Indians and the Interior Department.

6. The committee will recall that Mr. Ballinger claimed that we initiated the legislation contained in the act of February 20, 1904 (33 Stat., 46), wherein the Congress recognized the property rights of the Red Lake Indians to the entire lands within the boundaries of the present Red Lake Reservation. A similar recognition was given by Congress in the act of May 18, 1916 (39 Stat., 123-136), creating the forest reserve on the Red Lake Reservation. Members of the House Indian Committee will recall that Representative Steenerson, in whose district the Red Lake Reservation is located, stated to the committee that he was the author of the act of February 20, 1904 (33 Stat., 46), relating to the Red Lake Reservation, known as the Steenerson Act, and that he stoutly defended the rights of the Red Lake Indians to all property within that reservation. Attention is invited to the record showing his statement in connection with this matter; also to the specific provisions of section 1 of that act, which reads in part as follows:

"It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians and shall be entitled to allotments therein of one hundred and sixty acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees."

It will be appreciated that Mr. Ballinger is doing everything within his power to break down the force and effect of the provisions of the acts of 1904 and 1916, wherein Congress specifically recognized the rights of the Red Lake Indians to the Red Lake Reservation. In this connection it should also be borne in mind that the Red Lake Indians contributed approximately 2,000,000 acres of land that were ceded by the Chippewa Indians—more lands than were ceded by all the other bands of Chippewa Indians combined, and the proceeds from the sale of such lands went into the general Chippewa fund and was shared by all Chippewa Indians alike.

7. One of the amendments proposed by Mr. Ballinger would avoid the provisions of sections 2103, 2104, 2105, and 2106 of the Revised Statutes, relating to the employment of attorneys and the payment of attorney fees. It will be recalled that I pointed out to the committee that this was exceedingly important, quoting the report of the members of the House Indian Committee, emphasizing the danger of legislation of this character. I furnished to the committee a reference to the document containing this report of the House Indian Committee on this subject and attention is invited to that report and especially to the part of the report which I quoted in my testimony before the committee.

8. Mr. Ballinger again attempts to make it appear that large sums of money have been wasted in administering the affairs of the Chippewa Indians. The committee will recall that I quoted the provisions of section 7 of the act of January 14, 1889 (25 Stat., 642-645), wherein the department is required to pay out moneys to the Chippewa Indians to educate them, and carry on certain administrative functions among the Chippewa Indians as required by Congress. Section 7 of said act reads as follows:

"That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of 5 per cent per annum, payable annually for the period of 50 years, after the allotments provided

for in this act have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in manner following: One-half of said interest shall, during the said period of 50 years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of 50 years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said 50 years, the said permanent fund shall be divided and paid to all of said Chippewa Indians, and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of \$90,000 annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of \$3,000,000, less any actual interest that may in the meantime accrue from accumulations of said permanent fund: the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live stock, teams, farming implements, and seed for such of the Indians, to the extent of their shares, as are fit and desire to engage in farming, but as to the rest, in cash; and whenever said permanent fund shall exceed the sum of \$3,000,000 the United States shall be fully reimbursed out of such excess, for all the advances of interest made as herein contemplated and other expenses hereunder.

Mr. Ballinger endeavors to make it appear that because we have complied with the provisions of the laws enacted by Congress in making the cash interest payments to the Indians, in educating the Chippewa Indian children, and doing the other things required by Congress that large amounts of money have been squandered. I furnished to the committee a list of all the Indian Bureau employees in the Chippewa country, together with the salaries paid out of Chippewa funds. The attention of the committee is invited to the very low salaries paid to these employees and the comparatively small amount of money being used for salaries. We have furnished to Congress each year a report showing exactly the status of the Chippewa funds, the amounts expended, and for what purposes. The department has heretofore accounted for every dollar of funds that has been expended in the Chippewa country, and these reports are submitted to Congress annually at the beginning of the sessions of Congress.

I have also inserted in the hearings the report we submitted to Congress at the beginning of the last session of Congress, showing the expenditures of Chippewa funds during the last fiscal year and the purposes for which said funds were expended, and your attention is invited to the same, which is found in House Document 384, Sixty-sixth Congress, second session.

9. Attention is invited to my statement before the committee showing the number of day and boarding schools maintained among the Chippewa Indians, the attendance and the per capita cost. It is believed that it will be agreed by all fair-minded people that this statement shows that the schools are being administered along economical lines. We deny the statement that there are any agencies being maintained in the Chippewa country contrary to law. Attention is invited to the fact that the agencies have been reduced in number in recent years, also that the Government schools are being closed as rapidly as school facilities can be found for the Chippewa Indians in the public schools in the State of Minnesota.

10. The Indian Bureau endeavored to be very fair and liberal with the Indians represented by Mr. Ballinger as is shown by the drafts of legislation submitted to Congress by the department relating to administrative affairs among the Chippewa Indians and also the proposed legislation authorizing the Chippewa Indians to go to the Court of Claims. We have agreed before the committee on practically 90 per cent of the legislation proposed, but the Indian Bureau would be opposed to any Chippewa legislation whatever, if all the proposed amendments of Mr. Ballinger should be incorporated in the bill. I pointed out to the committee the danger of a number of the amendments proposed by Mr. Ballinger and have stated in the record the objections of the Indian Bureau to those amendments. The Indian Bureau is in favor of the legislation submitted to the House Indian Committee by the department including the minor amendments agreed to before the House Indian Committee at the recent hearing on Chippewa matters.

11. The attention of the committee is invited to the brief filed by Peter Graves, delegate of the Red Lake Band, and Daniel B. Henderson, attorney for the Red Lake Indians, which sets out in detail the views of the Red Lake Indians.

12. The Indian Bureau is in favor of winding up the affairs of the Chippewa Indian at the earliest possible date. We have endeavored repeatedly to get legislation that would authorize a per capita distribution of the funds now in the Treasury to the credit of the Chippewa Indians, but this legislation has been heretofore opposed by the members of the General Council, represented by Attorney Ballinger, and by the efforts of the General Council the Chippewa Indians were excluded from legislation recently passed by Congress authorizing the closing of the rolls and distribution of the tribal funds. In this connection, attention is invited to section 28 of the appropriation act of May 25, 1918 (39 Stat. 592) and section 1 of the Indian appropriation act of June 30, 1919 (41 Stat. 9).

Any delay, therefore, in the distribution of these funds must hereafter rest with the general council of the Chippewa Indians and Attorney Ballinger. The Indian Bureau is in favor of the distribution of these funds immediately and the winding up of the affairs generally, of the Chippewa Indians, as quickly as it can possibly be done, with due regard to the rights of all the Indians.

The CHAIRMAN. Now, Mr. Meritt, you may proceed.

Mr. McDONALD. Could I ask Mr. Ballinger just one question?

The CHAIRMAN. If Mr. Meritt is willing.

Mr. MERITT. If the question is short?

Mr. McDONALD. Is it not a fact, Mr. Ballinger, that as to the treaty of 1854 which separated the Wisconsin Indians, and the treaty of 1855, which ceded the large area you referred to, not a single Red Lake or Pembina Indian signed those treaties?

Mr. BALLINGER. The Red Lakes in 1854 were part of the Chippewas of the Mississippi and in 1855 were a part of the Chippewas of the Mississippi, and so when it was signed by the Chippewas of the Mississippi it included the Red Lakes.

The CHAIRMAN. Now that is sufficient answer.

Mr. McDONALD. I would like to ask him if it is not a fact that in the 1854 treaty it was signed by the La Pointe Band, which is Wisconsin, the Mississippi Band, giving their names, and not a single Red Lake Indian or representative is there found? Is not that true?

Mr. BALLINGER. The Red Lake Band was not in existence at that time. These Red Lake Indians derived their name from the color of the waters of Red Lake which is red.

Mr. MERITT. Mr. Chairman, Mr. Ballinger, the attorney for the Chippewa council, has with great eloquence said that he hated subterfuge. Mr. Ballinger did not point out that he made certain statements to this committee trying to make it appear that we were continuing schools up there and paying salaries in schools when in fact he knew that those schools were not actually in session and were not actually in existence, and he attempted to base his action and his remarks to this committee on an error that appeared in the report of the Commissioner of Indian Affairs. These statistics in the report of the Commissioner of Indian Affairs are prepared in the Indian Bureau by a clerk and we do not have time to go over those statistics with the greatest of care, and sometimes an error creeps into those statistics, and Mr. Ballinger took advantage of a misstatement in those statistics and tried to make it appear that we are paying out money to employees in a school where an Indian school did not exist. I am quite sure that Mr. Ballinger knew at the time he made that statement that that condition was not true.

Mr. Ballinger also tried to make it appear that I made a misstatement in regard to the citizenship of Indians where they leave reservations. If there was any subterfuge made in regard to that matter it was by Mr. Ballinger and not by me, and I want to quote the law on the subject in this record, so that nobody can question it. The law is found in the act of February 8, 1887, 24 statutes, page 390, and reads as follows:

And every Indian born within the territorial limits of the United States, to whom allotment shall have been made under the provisions of this act or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within the said limits his residence separate and apart from any tribe of Indians therein and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

This legislation has been subsequently amended and is found in the act of May 8, 1906, 34 statutes, page 182, but the language is almost exactly the language as found in the law that I have just quoted. The act of May 8, 1906, on this subject reads:

Every Indian born within the territorial limits of the United States, to whom allotments shall have been made and who has received a patent in fee simple under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not by birth or otherwise a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

I submit, Mr. Chairman, that legislation is exactly in line with the statement that I made to this committee.

Mr. KELLY. Will you pardon an interruption there? The specific point made was that the Indian Bureau's policy is to keep children of Indians who leave the reservation out of all distribution of the property of the tribe. Is that the policy of the bureau?

Mr. MERITT. We are following the decisions of the court on that subject. My statement was that this Indian did not lose his property right. Peter Graves's son did not lose his property right by leaving the reservation, and that statement is absolutely correct and is confirmed by the legislation that I have quoted here. But if Peter Graves's son should marry a white girl in Duluth and they should raise a family there, the children of that marriage would not be entitled to participate in the land and property of the Red Lake Indians. We have in support of that decision the Oaks case, and the man who rendered that decision is Judge Vandevanter, now on the bench of the Supreme Court of the United States, and who was formerly the solicitor of the Interior Department. In order that the committee may have accurate information on this subject I will ask that that decision be incorporated at this time. It is found in 107 Federal Reporter, 305.

(The decision referred to follows:)

[Circuit Court of Appeals, Eighth Circuit. August 2, 1909. No. 2797.]

1. Indians (sec. 13)—Right to share in tribal property: Originally the test of the right of individual Indians to share in tribal lands and other tribal property was existing membership in the tribe; but this rule has been so broadened by act March 3, 1875, c. 131, sec. 15, 18 Stat. 420 (U. S. Comp. St. 1901, p. 1419), and act February 8, 1887, c. 119, sec. 6, 24 Stat. 390, and other acts, as to place individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, upon the same footing in respect of this right as though they had maintained their tribal relations.

[Ed. Note.—For other cases, see Indians, Dec. Dig., sec. 13.]

2. Indians (sec. 13)—Act January 14, 1889, relating to Chippewas in Minnesota—Interpretation: Act January 14, 1889, c. 24, 25 Stat. 642, relating to the cession of part of the Chippewa Reservations in Minnesota and to the allotment in severalty of the remainder, does not expressly or by necessary implication displace the saving provisions of the acts of 1875 and 1887, above named, whereby individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, are accorded the same right to share in tribal property as though they had maintained their tribal relations; nor does it render those provisions less applicable to the Chippewas in Minnesota than to other Indians.

[Ed. Note.—For other cases, see Indians, Dec. Dig., sec. 13.]

3. Indians (sec. 13)—Act June 7, 1897, relating to rights of children of mixed blood: Act June 7, 1897, c. 3, 30 Stat. 62, relating to the rights of children of a white man and an Indian woman, in tribal property, does not embrace the children of a mother who was living at the time of its passage and was not then recognized by the tribe as one of its members.

[Ed. Note.—For other cases, see Indians, Dec. Dig., sec. 13.]

4. Suit to enforce right to allotment—Parties—Quære: Whether in a suit against the United States under act Feb. 6, 1901, c. 217, 31 Stat. 760, to enforce a right to an allotment of specified land, which has been allotted to another Indian, a decree displacing or annulling the existing allotment lawfully can be rendered, without making the allottee a party and giving him an opportunity to defend.

(Syllabus by the Court.)

Appeal from the Circuit Court of the United States for the District of Minnesota.

Harvey S. Clapp (C. B. Miller, on the brief), for appellants.

Charles C. Hought, U. S. Atty.

Before Sanborn and Van Devanter, Circuit Judges, and Amidon, District Judge.

Van Devanter, circuit judge. By their suit commenced and prosecuted under act Feb. 6, 1901, c. 217, 31 Stat. 760, the appellants asserted that they were entitled to have allotted to them in severalty, under act January 14, 1889, c. 24, 25 Stat. 642, certain specified lands in the White Earth Indian Reservation in Minnesota, that their applications for such allotments had been unlawfully denied by the officers charged with the allotment of the lands in that reservation, and therefore that they were entitled to a decree recognizing and enforcing their rights to such allotments. Upon the final hearing the Circuit Court, being of opinion that none of the appellants came within the terms of the act of 1889, entered a decree dismissing the bill, and an appeal has brought the case here. The facts established by the proofs are as follows:

The appellants are descendants of Margaret Beaulieu, a full-blood Mississippi Chippewa, who was enrolled and recognized during all her life as a member of that tribe and was living upon the tribal reservation at White Earth at the time of her death in 1877. Jane B. Oakes, one of the appellants, is a daughter of Margaret Beaulieu, was by birth a member of the same tribe, and was enrolled and recognized as such from the time of her birth until 1849. In 1829, while she was attending a mission school, she married a Mr. Oakes, a white man, and they lived at a trading post in the Chippewa country until 1849. In that year they moved to Fort Ripley, on the Mississippi, and the next year to St. Paul, where Mr. Oakes engaged in the banking business until the time of his death in 1879. Jane B. Jones, another of the appellants, is a daughter of Mrs. Oakes, was born in the Chippewa country in 1841, and was enrolled and recognized as a member of the Mississippi Chippewa Tribe until 1849, when her parents took her to Fort Ripley and then to St. Paul. She grew to womanhood in the latter place and has been married twice, each time to a white man. Jane Andrews and Cornelia Van Etten Bent, the remaining appellants, are daughters of Mrs. Jones by her first husband. They were born and reared in St. Paul, never were enrolled or recognized as members of the tribe, and are married to white men. After the Oakes family moved to St. Paul, Mrs. Oakes and Mrs. Jones abandoned their former tribal relations, adopted the customs, habits, and manners of civilized life,

and ceased to be recognized as members of the tribe. Sometimes they exchanged visits with members of the tribe; but these visits did not occur often and were confined to relatives. The appellants were all residents of St. Paul when the act of 1889 was passed, and shortly thereafter they asserted that they were entitled to allotments thereunder. In 1894 the names of Mrs. Oakes and Mrs. Jones were placed upon a supplemental census of White Earth Mississippi (Chippewa by the chairman of the commission charged with making a census and allotments under the act of 1889, and the next year their names were dropped from the census; but the circumstances in which these acts were done are not disclosed. In 1905, before applying for allotments of specific lands, Mrs. Oakes and Mrs. Jones removed to and took up their residence upon the White Earth Reservation. Whether or not Mrs. Andrews and Mrs. Bent did likewise may be left undetermined, because, if they did, it would not help them, as will be seen presently.

The White Earth Reservation was set apart as a tribal reservation for the use and occupancy of the Mississippi (Chippewa under the treaty of March 19, 1867 (16 Stat. 719), and was being allotted in severalty under the act of 1889 when the appellants applied for allotments therein and when this suit was commenced. That act is entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and provides for obtaining a cession and relinquishment by "all the different bands or tribes of Chippewa Indians in the State of Minnesota," of all their tribal reservations in that State, excepting so much of the Red Lake Reservation and of the White Earth Reservation as shall be deemed necessary "to make and fill the allotments required by this and existing acts." It further provides: That the cession and relinquishment shall be deemed sufficient as to each reservation, other than the Red Lake Reservation, if made and assented to in writing by a designated portion of "the band or tribe of Indians occupying and belonging to "such reservation, and shall be sufficient as to the Red Lake Reservation if made and assented to in like manner by a like portion of "all the Chippewa Indians in Minnesota": that, for the purpose of determining whether the requisite number of Indians participate in the cession and relinquishment and of making the allotments and payments mentioned in the act, an accurate census of "each tribe or band" shall be made; that as soon as the census shall be taken, and the cession and relinquishment shall be obtained and be approved by the President, "all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall * * * be removed to and take up their residence on the White Earth Reservation," and thereupon allotments in severalty shall be made to the Red Lake Indians from the unceded part of the Red Lake Reservation and to "all the other of said Indians," from the lands in the unceded part of the White Earth Reservation, such allotments to be made "in conformity with" the general allotment act of February 8, 1887 (24 Stat. 388, c. 119); that any of said Indians "residing on" any of said ceded reservations may, in his discretion, take his allotment on such reservation; and that all money accruing from the disposal of the ceded lands, after deducting expenses, shall be placed in the Treasury of the United States to the credit of "all the Chippewa Indians in Minnesota" and be used for their benefit or paid out to them in the manner and at the times stated in the act. The cession and relinquishment so provided for were obtained in the manner prescribed and were approved by the President March 4, 1890. House Ex. Doc. No. 247 (1st sess. 51st Cong.).

Originally, the test of the right of individual Indians to share in tribal lands, like the Chippewa Reservations in Minnesota, was existing membership in the tribe, and this was true of all tribal property. The question therefore arises: Is there any provision of law which broadens this original rule in a manner which is helpful to the appellants or any of them? If not, their effort to obtain allotments from tribal lands must fail, because it is a necessary conclusion from the facts before recited that Mrs. Oakes and Mrs. Jones, although once members of the Mississippi Chippewa Tribe long since ceased to be such, and that Mrs. Andrews and Mrs. Bent, although possessing some Mississippi Chippewa blood, never were members of the tribe; and, if there be such a provision of law, it must be found elsewhere than in the act of 1889 for that act does not in itself alter the original rule in a manner which is helpful to any of the appellants, but contains provisions which, in the absence of some provision of law to the contrary, probably would require that the allotments mentioned therein be confined to tribal Indians.

For many years the treaties and legislation relating to the Indians proceeded largely upon the theory that the welfare of both the Indians and the whites required that the former be kept in tribal communities separated from the latter, and, while that policy prevailed, effect was given to the original rule respecting the right to share in tribal property; but Congress later adopted the policy of encouraging individual Indians to abandon their tribal relations and to adopt the customs, habits, and manners of civilized life, and, as an incident to this change in policy, statutes were enacted

declaring that the right to share in tribal property should not be impaired or affected by such a severance of tribal relations, whether occurring theretofore or thereafter. One of the earlier acts upon the subject was that of March 3, 1865 (13 Stat. 562, c. 127, sec. 4), which gave to certain chiefs, warriors, and heads of families of the Stockbridge Munsee Tribe the right to become citizens of the United States, upon their dissolving all tribal relations, adopting the habits of civilized life, becoming self-supporting, and learning to read and speak the English language, and then declared that they should not be deprived thereby of the annuities to which they were or might be entitled. That act and others of its kind marked the beginning of the change and were followed by the act of March 3, 1875 (18 Stat. 42, c. 131, sec. 15 [U. S. Comp. St. 1901, p. 1419]), which extends the benefits of the homestead law to "any Indian born in the United States, who is the head of a family, or who has arrived at the age of 21 years, and who has abandoned, or may hereafter abandon his tribal relations," and then declares that:

"Any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations."

And next came act February 8, 1887, c. 119, 24 Stat. 388, which, in its sixth section, provides:

"And every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property."

Another cognate provision is found in act August 9, 1888, c. 818, 25 Stat. 392, which declares that a tribal Indian woman "hereafter" marrying a citizen of the United States shall become thereby a citizen of the United States, with all the rights, privileges, and immunities of such a citizen, without impairing or in any way affecting her right to any tribal property or any interest therein.

These acts disclose a settled and persistent purpose on the part of Congress so to broaden the original rule respecting the right to share in tribal property as to place individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, upon the same footing, in that regard, as though they had maintained their tribal relations. Not only this, but these acts, omitting that of 1865, are general and continuing in their nature, and therefore are as applicable to the Chippewas in Minnesota as to other Indians, unless the act of 1889 discloses, either expressly or by necessary implication, that Congress intended otherwise. In our opinion that act does not thus disclose such an intention. True, it speaks of the Indians concerned as "bands or tribes," provides that all, save those on the Red Lake Reservation, "shall * * * be removed" to the White Earth Reservation, and is entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota"; but the inference sought to be drawn therefrom, namely, that only tribal and uncivilized Indians are to have the benefits of the act, is materially weakened when we turn to other provisions, such as those directing that enough lands be withheld from the contemplated cession "to make and fill the allotments required by this and existing acts," and that the allotments be made "in conformity with" the act of February 8, 1887, which expressly recognizes the right of individual Indians, who have abandoned their tribal relations and have adopted the customs, habits, and manners of civilized life, to share in tribal property. An inference of such uncertain strength is not enough to overcome the general aversion to repeals by implication, especially where a settled policy in legislation is involved and no reason for disturbing it is apparent. *United States v. Gear*, 3 How. 120, 130, 11 L. Ed. 523; *Frost v. Wenie*, 157 U. S. 46, 58, 15 Sup. Ct. 532, 39 L. Ed. 614; *United States v. Healey*, 160 U. S. 136, 146, 16 Sup. Ct. 247, 40 L. Ed. 369; *United States v. Greathouse*, 166 U. S. 601, 605, 17 Sup. Ct. 701, 41 L. Ed. 1130; *McChoral v. Louisville, etc., Co.*, 183 U. S. 483, 500, 22 Sup. Ct. 165, 46 L. Ed. 289; *Great Northern Ry. Co. v. United States*, 84 C. C. A. 93, 109, 155, Fed. 945, 961.

We conclude that Mrs. Oakes and Mrs. Jones, who formerly were members of the tribe, are within the saving provisions of the acts of March 3, 1875, and February 8, 1887, and so are entitled to share in the allotment and distribution of the tribal property, the same as though they had maintained their tribal relations, but that Mrs. Andrews and Mrs. Bent, who never were members of the tribe, can not derive any benefit from any of the acts mentioned; and we reach this conclusion with

greater satisfaction, because it is in accord with rulings of the Secretary of the Interior in cases which are not distinguishable from this. William Banks, 26 Land Dec. Dep. Int. 71; Minnie H. Sparks, 36 Land Dec. Dep. Int. 234.

In support of the claims of Mrs. Andrews and Mrs. Bent, our attention is invited to the still later act of June 7, 1897 (30 Stat. 50, c. 3, sec. 1), which reads as follows:

"All children born of a marriage heretofore solemnized between a white man and an Indian woman, by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior act of Congress shall be construed as to debar such child of such right."

But of this act it is enough to say that its terms are such that it does not embrace the children of a mother, such as Mrs. Jones, who was living at the time of its passage and was not then recognized by the tribe as one of its members.

As a defense to the claims of Mrs. Oakes and Mrs. Jones, it is alleged that all of the land selected by the former and a part of that selected by the latter has been "duly allotted" to other Indians; but, as this defense was not passed upon by the circuit court, and as the record indicates that the evidence bearing thereon is not as full and clear as it might be, we deem it the better course to leave the matter open to further consideration in the circuit court. And it is suggested, without indicating any conclusion thereon, that a question has arisen as to whether a decree displacing or annulling the existing allotments to other Indians lawfully can be rendered unless the allottees be made parties and be given an opportunity to defend. *United States v. Fairbanks* (decided by this court June 3, 1909), 171 Fed. 337; *Minnesota v. Hitchcock*, 185 U. S. 373, 387, 22 Sup. Ct. 650, 46 L. Ed. 954.

In the answer it is also alleged that part of the land selected by Mrs. Jones has been specially set apart for allotment to Indians who may be removed from the Mille Lac Reservation; but no proof of any such setting apart or of any authority therefor is contained in the record, and no mention thereof is made in the Government's brief, so this defense must be regarded as abandoned.

Following what has been said, the decree of the circuit court is affirmed in so far as it dismisses the bill as to Mrs. Andrews and Mrs. Bent, and in other respects it is reversed, with directions for further proceedings not inconsistent with the views expressed herein.

Mr. MERITT. Now, Mr. Chairman, leaving that subject, I want to call your attention to some other misrepresentations that have been made to this committee, some subterfuges, if you please.

They tried to make it appear that the Interior Department was responsible for the act of 1906, known as the Clapp amendment, and the amendment of 1907, which resulted in the White Earth Indians being robbed outrageously of their lands and of their timber. Mr. Chairman, anyone who knows the history of that legislation knows that that is an absolute misrepresentation of fact—and when I make that statement it is a very mild characterization.

They also attempted to make it appear that we initiated the act of 1904, when in fact we showed that the Members of Congress, the Senators, and the Representatives, petitioned the department in regard to this cession, which resulted in the agreement of 1904 with the Red Lake Indians, and which resulted in the Steenerson Act. If you want to know the history of the Steenerson Act, ask Mr. Steenerson himself, who is now in Congress and who represents that district; and if you want to know what people are trying to pull off here in regard to this Chippewa matter, ask Mr. Steenerson himself, because he knows not only what they are trying to do but what they have done in the past.

They also tried to make it appear that the Interior Department initiated the legislation of 1916. More subterfuge, if you please. They can stand up here with great eloquence and with mock earnestness and talk about subterfuge, when in fact they are the men who are practicing the subterfuge on this committee. The Interior

Department did not initiate the act of 1916, and anyone who knows the history of that legislation knows that that statement is absolutely false. That legislation was initiated by Representatives in Congress from Minnesota. And gentlemen of the committee, in connection with these acts of 1904 and 1916, where Congress has specifically recognized the right of the Red Lake Indians to the Red Lake Reservation, we must remember that Congress is twice on record as recognizing the rights of the Red Lake Indians to the entire reservation; whereas Congress is not specifically on record in regard to the other Indians owning part of the reservation.

It has been clearly pointed out here that the commissioners who negotiated the agreement of 1889 promised the Red Lake Indians that the Red Lake Reservation should belong exclusively to the Red Lake Indians, and I have placed in the record here a statement by the Chippewa Commission to the Red Lake Indians at the time the negotiations were being carried out.

They also tried to make it appear that the legislation required us to make allotments on the Red Lake Reservation; that we were directed by Congress to make these allotments; whereas the legislation, if you read it carefully, does not contain any such provisions. The legislation says "when practicable" we shall make allotments on the Red Lake Reservation, and I have pointed out that it is absolutely impracticable to make allotments at this time on the Red Lake Reservation, and it will be impracticable to make those allotments until that timber is sold and until that land is drained.

The gentleman says that they are here trying to do something for the Red Lake Indians. Mr. Chairman, it would have been better if they had said that they were here trying to do something to the Red Lake Indians, but we do not propose that they shall do it. The Red Lake Indians themselves are here protesting against the action of these men who are trying to get this reservation allotted. Why? Because it will result in harm to the Red Lake Indians and benefit to the men who are trying to get this legislation.

I have throughout this discussion refused to name names or to indulge in personalities, but I want to tell this committee now and here that if this legislation that these gentlemen want is enacted it will result in robbing the Red Lake Indians and putting money into the pockets of men who are trying to get this legislation enacted. Why? Because some of the men right in this room to-day own trading stores on the Red Lake reservation and possess fortunes. If that reservation is allotted and restrictions are removed on that land they can and would acquire the property of the Red Lake Indians; we are trying to protect the Red Lake Indians from being robbed. We do not want a repetition of the White Earth scandals, and we are going to do everything within our power to prevent that being done, and if it is necessary to use plain language before the committee of Congress, we will use that plain language when the time is opportune.

Why, Mr. Chairman, I am told by a lawyer in this room that Mr. Ballinger and some Indians went before a committee recently, on Saturday, in connection with the drainage proposition of the Red Lake Indians, and represented before that committee that they were there representing the Red Lake Indians and were opposing the draining of the Red Lake Reservation.

Mr. BALLINGER. Mr. Chairman, that kind of a statement ought not to be made.

Mr. MERITT. I have as my authority Attorney McDonald in this room, who made the statement to me.

Mr. BALLINGER. Did you state that I or any person in connection with the general council went before the Drainage Committee last Saturday or any other time?

Mr. McDONALD. I have as my authority a Congressman who stated that you were there Saturday afternoon and that you represented the Red Lake Indians.

Mr. BALLINGER. Mr. Chairman, we were there as onlookers. Not one word was said to the committee either as to who we represented or what our views were.

Mr. McDONALD. The representation must have been made to the Congressman because he certainly would not make the statement otherwise.

Mr. MERITT. Now, Mr. Chairman, I am willing to compare the conditions of the Red Lake Indians to-day with the condition of the White Earth Indians. The Red Lake Indians own all of their reservation. They own all of their timber. Eighty per cent of the White Earth Indians have been robbed of their entire property. To-day 80 per cent of the White Earth Indians do not possess any land or timber; yet we have these White Earth Indians here trying to control the conditions on the Red Lake Reservation; trying to bring about the same conditions on the Red Lake Reservation that have been brought about on the White Earth Reservation, and we don't propose that those conditions shall be brought about. We propose to protect the property of the Red Lake Indians and see that the Red Lake Indians get their property.

The CHAIRMAN. Now, Mr. Meritt, you have had your 15 minutes and the time for adjournment has arrived, and I desire to say that it is the intention, if agreeable to the other members of the committee, to have what we might call an executive session to-morrow on the bill, and we would be glad to have Mr. Ballinger and Mr. Henderson and Mr. Meritt here at the time.

Mr. MERITT. Mr. Chairman, may I make a statement in regard to that? We have several delegations of Indians here who are very anxious to be heard. We have the Crow Indians who would like very much to be heard to-morrow on the Crow bill, so that they can go home, and it will only take a very short time. We have agreed on the legislation. There is no controversy. They ask for certain amendments which are agreeable to us.

The CHAIRMAN. Is that the bill which goes to the Court of Claims?

Mr. MERITT. No, sir; it is a bill that has passed the Senate, and is now pending on the calendar of the House.

The CHAIRMAN. You want to have that heard here in the morning?

Mr. MERITT. We would like to have that heard to-morrow. And before we go into this Chippewa bill, Mr. Chairman, I would like to have an opportunity, in the light of this hearing, to go over that bill very carefully before we attempt to discuss it with the committee.

The CHAIRMAN. Is it your intention to be here several days, Mr. Henderson?

Mr. HENDERSON. I am here all the time, Mr. Chairman.

Mr. BALLINGER. Mr. Chairman, the gentlemen that I represent are very busy men. They are men of considerable affairs and they want to get through with this as soon as they can.

The CHAIRMAN. Well, this is a very busy committee too, and we have some other duties to perform besides holding hearings upon one question all the time. There are a number of others who want to be heard.

Mr. MERITT. The Crow Indians have been here several days anxiously waiting to be heard.

The CHAIRMAN. I think we can hear the Crow Indians to-morrow morning and then give up the balance of the day for you men to study the bill and be prepared the next day to come in and go through the bill with us.

Mr. BALLINGER. We are ready right now.

The CHAIRMAN. Then we will leave it that way, the Crow matter to be heard in the morning.

Mr. RHODES. Mr. Chairman, what about filing a brief or supplemental statement? Do you want to fix any time for that?

The CHAIRMAN. I think we ought to give them 10 days for that.

Mr. RHODES. I think it might be well to state the time.

The CHAIRMAN. If that is agreeable to all the attorneys, we will fix the time 10 days from to-day in which the briefs may be filed, so that they may be put into the record before it is printed.

Mr. BALLINGER. Mr. Chairman, can't these parties who desire to file their briefs and who are making complaint file theirs, say, within seven days and then we will have three days to look those over and file anything we want to in answer?

Mr. RHODES. I think that is a thing that is practical.

Mr. McDONALD. If the chairman please, it will take me three days to get home and three days to get that mail back here.

Mr. RHODES. Suppose we make it 10 days to file briefs and 5 days in which to reply, making it 15 days in all.

Mr. McDONALD. That is satisfactory.

The CHAIRMAN. That is all right. There is no great hurry about this matter.

The committee will stand adjourned until to-morrow morning at 10.30, at which time we will take up the hearings on the Crow bill.

(Whereupon, at 1.30 o'clock p. m., the committee adjourned until 10.30 o'clock a. m., Wednesday, March 17, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Thursday, March 18, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding. Present: Mr. E. B. Meritt, Assistant Commissioner of Indian Affairs; Mr. Webster Ballinger, representing Chippewa Indians; and Mr. Daniel W. Henderson, representing Red Lake Indians.

The CHAIRMAN. Gentlemen, the committee will come to order. The session to-day is a semiexecutive session with the lawyers representing the different factions and the Assistant Commissioner of Indian Affairs, and it is the wish of the chairman, and I think the

members of the committee, since we have had so much argument on the bill and have had so much information, that we should now take up the bill and have the suggested amendments pointed out, and short arguments on each one of those; not, however, with any idea of coming to a conclusion on the question at this time, but simply with the idea of getting the purport of the amendments, and then after the bill has been amended, my thought would be to have each one of the attorneys and the assistant commissioner make a statement with regard to the whole measure as to how it will operate over the whole situation.

Now, if there is any objection to that suggestion and that method of operating, let us hear that first.

MR. ELSTON. Mr. Chairman, I suggest, too, that without any introduction of matter or argument that we get right down to the points at issue so we can make it as brief and definite as possible.

THE CHAIRMAN. That is exactly what I had in mind, and have the amendments pointed out and simply briefly discuss it, and see if we can go through it just the same as we did the Crow bill the other day. Then, after we have gotten all the amendments in, if some one wants to make a statement with regard to the whole measure, which, of course, has got to be concise and to the point, because we have got a big record on this thing, if the committee has no objections, we would hear that.

MR. BALLINGER. Mr. Chairman, you limited the attendance to-day to the attorneys. Mr. Rogers is a member of the general council, is an attorney, and is here. Could he not be permitted to be present?

THE CHAIRMAN. Certainly; anyone who can give us any light on the question, if we want it; but we do not want any argument from anybody to-day except those who are here for the purpose.

MR. HENDERSON. Mr. Chairman, in that connection I would like to say that I have been so recently employed in this matter and we have here representing the Red Lake Indians just one delegate who is so well informed, and I think will be of as much service as any man.

THE CHAIRMAN. He can be of service to you, but we are not going to listen to any extraneous proposition. We want the advice of the attorney now and the counselor at law, so that if we get any information it is not going to be a lengthy discussion of something that has already been up.

MR. BALLINGER. Mr. Chairman, as the general council is offering amendments shall I proceed?

THE CHAIRMAN. Well, I think that would be in order. My idea is that you and the commissioner here are the main parties to be heard, and I think it would be wise for Mr. Ballinger to present his amendments and make his statement, and then let Mr. Meritt answer for the rest.

MR. KELLY. I think that is the proper idea.

MR. BALLINGER. Mr. Commissioner, merely a suggestion, so that the record may be complete, if you will permit me to insert—I have in typewriting the amendments desired, and if you will permit them to be inserted in the record at this point, then I will take them up in their order.

THE CHAIRMAN. Why not put them in one at a time as we go along with the bill?

Mr. ELSTON. We had better put them in first so that we can read them all together.

The CHAIRMAN. All right; we will do that.

(The paper referred to follows:)

AMENDMENTS PROPOSED BY THE GENERAL COUNCIL TO THE COMMITTEE PRINT OF
DEPARTMENTAL DRAFT ADMINISTRATIVE BILL.

Page 1. Strike out the title and insert in lieu thereof the following: "To wind up the affairs of the Chippewa Indians of Minnesota." Line 5, after the words "and one by the", insert the words "executive committee", and in line 6, reinstate the first two words, viz: "of the".

Page 2. Lines 19, 20, and 21, reinstate the words stricken out. Lines 23, 24, and 25, reinstate the matter stricken out, with the following changes: Line 23, after the word "enrolled", insert the words "and allotted". Line 23, after the word "shall", insert the word "also". Line 24, strike out the word "residing" and insert in lieu thereof the word "belonging". Line 25, after the word "and", and before the word "allotted", insert the word "not".

Page 4. Line 15, after the word "incompetent", insert the word "allotted". Lines 20, 21, and 22, strike out the following words "except the Chippewas residing on and belonging to the Red Lake Reservation".

Page 5. Commencing with the word "that", in line 8, reinstate the matter stricken out in lines 8, 9, and 10.

Page 6. Line 6, reinstate the word "forthwith".

Page 10. Line 9, reinstate the words "together with the accrued interest". Line 10, change the word "minor" to "adult". Lines 11 and 12, strike out the words in italics, viz: "upon his attaining his or her majority". Line 14, strike out the word "of". Line 22, reinstate the word "shall". Line 23, strike out the word in italics, viz: "may".

Page 11. Line 2, after the word "child", insert "either of". Line 2, strike out the words "parent or". Line 19, after the word "all", insert "merchantable". Commencing with the word "which", in line 21, strike out the remainder of that line and all of lines 22, 23, and down to and including the figures "400", in line 24. Line 25, reinstate the matter stricken out.

Page 12. Commencing with the word "except", in line 1, strike out the remainder of that line, all of line 2, and down to and including the word "reserve", in line 3. Line 6, strike out the words "said amendatory", and insert in lieu thereof the word "the". Line 7, after the figures "1902" and before the colon, insert "(32 Statutes at Large, page 400)". Line 17, reinstate the words stricken out, viz: "and undisposed of". Lines 17 and 18, strike out the words in italics, viz: "and not included in any reserve and not disposed of". Line 23, strike out the word "designated", and insert the word "appointed".

Page 12. Line 24, after the word "the" and before the words "general council," insert "the executive committee of the." Line 25, strike out the words "and appointed by the Secretary of the Interior."

Page 13. Line 2, after the word "land" insert the words "including any timber thereon."

Page 14. At the end of line 8, insert the following: "Provided, That the Secretary of the Interior may dispose of so much of Cooper or Star Island in Cass Lake and so much of the land bordering on the eastern, southeastern, and southern shores of Cass Lake, and commonly known as Norway Beach, and the lands adjoining the western shores of Pine Point on Leech Lake and the standing timber thereon as remains undisposed of, in tracts of limited areas for permanent or summer homes, hotels, or resorts under regulations to be prescribed by the said Secretary and approved by the executive committee of the Chippewa General Council." Line 15, after the word "fund" change the semicolon to a comma and reinstate the matter stricken out in lines 15, 16, 17, 18, and 19.

Page 15. Line 1, after the word "upon" insert the following: "and with the approval of the executive committee of the general council." Line 2, reinstate the words stricken out, viz: "or all" and after the word "all" insert the words "school equipment." Line 3, before the word "and" insert the words "used for school purposes." Line 4, after the word "Indians" insert the following: "Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable."

Page 16. Line 15, strike out the words in italics and reinstate the words stricken out in lines 15 and 16. Line 17, strike out the words in italic and reinstate the word stricken out. Line 17, after the word "and" insert "in his discretion other."

Page 17. Line 9, before the words "general council" insert the words "executive committee of the."

Page 18. Line 24, after the words "public school" insert the words "and park."

Page 19. Reinstate section 5, with the following amendments: Line 8, strike out the word "at." Line 9, strike out the words "Bemidji, Minnesota." Line 9, after the word "beginning" strike out the word and figure "July 8." Line 9, after the word "beginning" insert the following: "on the second Tuesday in July of" so that it will read as amended: "to be held annually, beginning on the second Tuesday in July of each year, pursuant to the constitution of the general council." Line 17, strike out the word "such" and insert in lieu thereof the word "so."

Page 20. Reinstate lines 1 and 2.

Pages 26, 27, and 28. Change section 5 to section 6.

Page 28. Change section 6 to section 7. Include section 8. Strike out lines 11, 12, 13, and 14. Include section 9. Lines 20, 21, 22, 23, and 24, reinstate the matter stricken out. Lines 24 and 25, strike out the words in italic.

Page 29. Strike out the words in italic in lines 1, 2, and 3 down to and including the word "expenses." Add U. R. 12972 as additional sections, renumbering sections.

Page 1. Renumber section 1 as section 10.

Page 2. Change section 2 to section 11. Line 19, after the word "thereof" insert the following: "and lawfully chargeable against said tribe or any band thereof." Line 22, after the word "amendment" insert the words "at any time during the progress of the suit."

Page 3. Line 11, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such certified." Line 11, after the word "thereof" insert the words "free of cost." Renumber section 3 as section 12.

Page 4. Renumber section 4 as section 13. Lines 8 and 9, strike out the words "under contract or contracts made and approved as provided by existing law" and insert in lieu thereof the words "by their general council." Renumber section 5 as section 14. In line 22, strike out the word "or" and insert the word "and." Line 23, after the word "Chippewas" insert "which shall include all the Chippewa Indians residing on and belonging to said reservation."

Page 5. Line 5, after the word "Band" insert the following: "The court shall also determine the ownership of any funds that may hereafter be derived from the sale and disposition of any of the property on the Red Lake Reservation, and all funds now in hand and that may hereafter accrue from the disposition of any such property on the Red Lake Reservation shall be held subject to the final determination of the case and shall then be disbursed in strict conformity with the decree of said court." Line 13, after the word "States" strike out the word "or" and insert "and." Line 20, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such." Line 21, after the word "thereof" insert the words "free of cost."

Page 6. Line 8, after the word "made" insert the words "if the Indians residing on and belonging to the Red Lake Reservation are successful." Line 10, strike out the period after the word "suit" and insert a comma and add the following: "and if said Red Lake Indians are unsuccessful said \$5,000 and expenses shall be paid out of the Public Treasury to be reimbursed out of any funds to which the individual member of said band may be entitled before any further payments out of the tribal property shall be made to any of the members of said bands." Line 17, after the word "the" insert the following: "General Council of the Chippewa Indians of Minnesota to represent the." Lines 17 and 18, strike out the words "under contract or contracts made and approved as provided by existing law." Renumber section 6 as section 15.

Page 7. Line 5, after the parenthesis following the figures "642" insert the following: "or to which the Indian title had not been lawfully extinguished by cession." Line 5, strike out the word "subsequently." Lines 18, 19, 20, 21, 22, and 23, strike out the words "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians" and insert in lieu thereof the following: "as provided in section 2 of this Act." Line 25, strike out the words "under existing."

Page 8. Strike out all of lines 1 and 2. Line 14, strike out the period and insert a comma and add the following: "and shall furnish copies of any such letters, papers, documents, and public records as said attorneys may desire for use in said case free of cost." Add the following as section 16:

"Sec. 16. This Act shall become effective and binding upon the Chippewa Indians of Minnesota when ratified and accepted by a majority of their general council, the members of which shall be selected at an election held subsequent to the approval of this Act under the supervision of the Secretary of the Interior, but said supervision shall extend no further than to see that every male adult member of the said tribe over 18 years of age is freely permitted to participate in said elections and that this vote is properly recorded; and that the votes cast in the general council are properly recorded. Without such acceptance and ratification this Act shall be inoperative."

Mr. BALLINGER. Mr. Chairman, we will take, as I understand it, as the basis of the legislation, the committee print of the legislative bill.

The first amendment suggested is on page 1, in the title. The title of the bill as it stands is:

A bill to wind up the Affairs of the Chippewa Indians of Minnesota.

The general council suggests in lieu of that this title:

A bill for the preparation of additional rolls, allotments of lands, disposition of the lands and funds of the Chippewa Indians of Minnesota, and for other purposes.

That is the object and purpose of the legislation, and they suggest that it would be a more appropriate title.

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. Except that the title now in the bill more clearly defines the scope of the proposed legislation contained in the bill. We have no serious objection as to what title is given to the bill, but really I think that the present title is preferable to the title suggested.

The CHAIRMAN. Very well, we will pass that.

Mr. HENDERSON. May I have just a word, Mr. Chairman, on that? I think that question concerns the Red Lake Indians directly, and the disposition made by this committee of the Red Lake Indian section would have some effect upon ascertaining and determining whether that was a proper title or not. If the Red Lake Indians stay in this bill on the same footing with the others, it would be proper; otherwise—

The CHAIRMAN (interposing). What would be proper?

Mr. HENDERSON. The proposed amendment. Otherwise I should say that the present title would be more accurate.

The CHAIRMAN. We will just say then that that is passed for the present.

Mr. BALLINGER. Mr. Chairman, the second amendment is on page 1, line 5, after the words "and one by the" insert the words, "executive committee"; and in line 6 reinstate the first two words, viz: "of the." So that the provision would read as amended, commencing with line 3: "That a commission of three members, one of whom shall be appointed by the President of the United States, one by the Secretary of the Interior, and one by the executive committee of the general council of the Chippewa Indians of Minnesota." The object and purpose of that amendment is to give a workable proposition. As the bill now stands the member of the commission is to be appointed by the general council. In order to make that appointment it would be necessary to convene a general council of 120 delegates, at a cost probably to the Chippewas of \$2,500. They have an executive committee that transacts their business, and this would enable that executive committee at comparatively little cost to the tribe to designate this member of the commission.

Mr. MERITT. The reason we suggested that the words in lines 5 and 6: "President of the" be stricken out is because we thought the general council as a whole should have authority to select the representative of the Indians, rather than a select few of this general council, otherwise the inner circle of the general council would control. The general council holds a meeting annually, and this legislation probably will not pass very early at this session and they will have ample time and opportunity to select their representative on this legislation.

Mr. KELLY. Mr. Meritt, as a practical matter, even if they called the general council, it will finally come down to the executive committee anyhow to name. That is a practical thing.

Mr. MERITT. If it is left in the language we have suggested, it will be thrown open to the general council as a whole.

Mr. KELLY. It would come back to the executive committee anyhow. Then they would have the opportunity to say who would be their representative on this commission in connection with this legislation. It is the same as the theory of the House of Representatives. In theory we can name committees as a Congress. In practice we don't do anything of the kind; we have a committee that brings in the list and Congress ratifies it. It would be the same way here, even if you hold a council, the executive committee would do the same thing there anyhow.

The CHAIRMAN. Mr. Henderson, do you have anything to say on that?

Mr. HENDERSON. Mr. Chairman, again it depends on whether the Red Lake interests are excluded finally from this bill. If the Red Lake rules are not to be changed by the action of this commission and otherwise, they would have little interest in that provision; if they are to be changed, the Red Lake Indians would prefer that the matter should be open to the council rather than to an executive committee for this reason: I think it has appeared clearly to this committee since the hearings began, that there is a very grave dissatisfaction up there about the general council being truly a representative body, and this would perhaps give more delegates a chance to express their views, or more representatives of the different districts to express their views, than if it were left to a smaller body, the executive committee.

Mr. ELSTON. Now that presents the issue and I think we should just pass that.

The CHAIRMAN. We will just pass it for the present. I mean that ends it until we have an executive meeting of the committee itself to determine which of these matters we will agree upon, and how we will agree upon them. What is the next?

Mr. BALLINGER. Page 2, lines 19, 20, and 21, the council asks to have reinstated the words stricken out. The words stricken out are—and I will read back at the commencement of the sentence, in line 14:

Said commission shall immediately proceed to add to the existing allotment rolls of the Chippewa Indians of Minnesota, except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted, the name of any person in being at the time said roll is made and lawfully entitled to an allotment of land, under the agreements entered into with said Indians, pursuant to the provisions of the act approved January 14, 1889.

Now, that would give to them the same rights—that is, to any persons whose names are added to the roll—the same rights that those who are now on the rolls have. As it stands, that is left in doubt.

The CHAIRMAN. What have you to say to that, Mr. Meritt? The amendment is that the words be reinserted that have been stricken out, that is, the words “agreements entered into with said Indians pursuant to the provisions of the act, and so forth.” The amendment is to reinstate that.

Mr. MERITT. Mr. Chairman, the officials of the Indian Bureau, who have gone over this bill very carefully, thought that inasmuch as the act of Congress approved January 14, 1889, was the controlling act, and inasmuch as there was quite a controversy as to the meaning of the agreement, and as the act had been carefully interpreted, we thought it would be better to have reference only to the act of Congress.

The CHAIRMAN. And not go back of that?

Mr. MERITT. Yes, sir.

Mr. KELLY. Is there not as great disagreement in the act itself, brought out at this hearing, as there is in the agreement?

Mr. MERITT. No, sir; but there is a great disagreement as to the agreement, and the meaning of the agreement, and the language used by the commissioners and the Indians in negotiating the agreement.

Mr. ELSTON. Is it the intention, by striking out the reference to the agreement here, to disregard that entirely and then to act under the act of 1889 in any way that you choose, without reference to any agreement entered into?

Mr. MERITT. No, sir; but in order not to confuse the matter, and inasmuch as Congress has passed the act of January 14, 1889, we thought that that was what we here had referred to in this matter.

The CHAIRMAN. In other words, as I see it, you want an objective. You want something to work to. You want something that is definite to work to. If you let that go in the other way, they can go back to the days of Columbus.

Mr. MERITT. There would be great confusion.

Mr. BALLINGER. Right on that point I want to clear your mind. The act of 1889 was ratified without change or modification by the Indians, and the object of this is to designate it as an agreement, which it was both in law and in fact, instead of an act of Congress.

The CHAIRMAN. Then why is it necessary to fix it so that you can go back?

Mr. BALLINGER. No; there is no object here to go back. There is no such intention, but it is to designate it as an agreement, which it was, instead of a law of Congress.

Mr. RHODES. Mr. Chairman, here is the idea of the department—it seems to me it is well taken—no agreements certainly were ever effective and should not have been effective, except such agreements as were justified by the act of January 14, 1889, and it is clear to my mind that the intention of the department is to conform to the provisions of this act, and not enlarge upon the scope or purview of that act by simply extending it so as to apply to any subsequent agreement that might have been made.

Mr. ELSTON. But it says here: “Agreements pursuant to the act,” and restricts any agreements that may be considered in this matter

to agreements made in pursuance of the act. Now, of course, that would throw back to the bureau the interpretation of the agreements, and the selection of only such agreements as are made pursuant to the act, and in that decision they would disregard anything that they thought had not been legally entered into as not binding. They would still have the right to disregard informal agreements or agreements which they thought had not been made in conformity with the act and not legally executed. I think we understand it now.

Mr. RHODES. But after all, those agreements could have been made and not now recognized as those consistent with the provisions of the act?

Mr. ELSTON. Yes; that is true. We have got an issue now. Mr. Chairman, and I think what the committee can do is this: We have got a clear definition of the issue and just what is wanted; now I think if we don't go too far afield—

The CHAIRMAN (interposing). That is just what I want to do; let us see if we can get the understanding of these attorneys, and the commissioner, and then we will do all this discussing when it comes to making up the bill.

Mr. BALLINGER. May I say just one word on that?

The CHAIRMAN. Just one. Now make your statement when you present your amendment, then don't attempt to subsequently talk half an hour on each one, because we will not get through with this thing in a month.

Mr. BALLINGER. The act of January 14, 1889, did not become effective unless ratified by the Indians, and so the ratification constituted an agreement and not a law of Congress; and therefore we are asking that the agreement be used as the basis, which was in fact the basis, instead of the law.

Mr. ELSTON. It amounts to the same thing, Mr. Ballinger.

The CHAIRMAN. Mr. Meritt, have you anything further to say on that?

Mr. MERITT. I have this to say, Mr. Chairman, that if the change that Mr. Ballinger suggests is incorporated in the bill, it will lay the foundation for a large claim against the Government of the United States.

The CHAIRMAN. All right; have you anything to say, Mr. Henderson?

Mr. HENDERSON. I would rather reserve, if I may, Mr. Chairman, whatever I have to say on this point until later in the discussion.

Mr. ELSTON. Do I understand here that the reservation in line 17, excluding the Red Lake Reservation Indians from this allotment matter is agreed to all around? There is a reference here—"and except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted." That seems to have been passed without any comment here. I don't know your idea upon that.

The CHAIRMAN. Whatever is in the bill, my understanding is has been agreed to, and if that is wrong we had better have it understood now.

Mr. MERITT. That is our understanding of the matter, Mr. Chairman.

The CHAIRMAN. All right; then proceed with the next amendment.

Mr. BALLINGER. On page 2, lines 23, 24, and 25, reinstate the matter stricken out with the following changes: In line 23, after the word "enrolled," insert the words "and allotted"; and in line 23, after the word "shall" insert the word "also"; and in line 24, strike out the word "residing" and insert in lieu thereof the word "belonging"; in line 35, after the word "and," and before the word "allotted," insert the word "not." So that the provision would read, commencing with line 22 after the figure 642:

And who had not heretofore been enrolled and allotted, and said commission shall also prepare a roll of the Chippewa Indians belonging on the Red Lake Reservation and then in being and not allotted.

Now the object and purpose of that is to get a roll, an accurate and complete roll of the Indians who reside on the Red Lake Reservation. There is no such roll as that now in existence.

The **CHAIRMAN.** Mr. Henderson, have you anything on that?

Mr. HENDERSON. Mr. Chairman, I don't know the facts with regard to the roll. Mr. Ballinger says that there is no such roll as that in existence. My best information is that there is a regular annuity roll there that is kept up to date year by year and is reported to the department, and that roll will disclose the names of all persons believed by the Red Lake Indians to be properly enrolled as members of the Red Lake band; but whether that be true or not, Mr. Chairman, there is no one that knows so well how to make a correct roll of the Red Lake Indians, or the Red Lake band, as the Indians themselves. The tribal council there, with the aid of the superintendent is fully competent to make a perfectly correct roll of that band, and it is hoped that before this hearing is over it will be so arranged that there will be no need for discussion of this question. In other words the Red Lake Band hopes to be so completely segregated from the rest of this legislation that it will not be necessary to discuss this question but if they are not so separated, then the Red Lake Indians most urgently request that they be excluded from this provision.

Mr. MERITT. Mr. Chairman, we are not in favor of this proposed amendment of Mr. Ballinger's, for the reason that we already have a roll of the Red Lake Indians, and for the further reason that the Red Lake Indians themselves would seriously oppose any representative of the Chippewa Council, who would undoubtedly be a White Earth Indian, having anything to do with the preparation of the rolls of the Red Lake Indians.

The **CHAIRMAN.** We will pass that for the present. What is the next?

Mr. BALLINGER. On page 4, line 15, after the word "incompetent," insert the word "allotted." The object of that is to make the designation of the roll properly descriptive of the roll. It is to be the roll of allotted Indians, allotted incompetent Indians.

Mr. MERITT. We have no objection to that amendment, Mr. Chairman.

The **CHAIRMAN.** That will be passed for the present.

Mr. BALLINGER. In lines 20, 21, and 23, strike out the following words: "Except the Chippewas residing on and belonging to the Red Lake Reservation."

The objection and purpose of that is to include the Red Lake Indians in the roll of incompetent Indians to be prepared. The

object and purpose is to segregate the competent from the incompetent and that that shall apply to all the Chippewa Indians, including the Red Lakes, so that we may know that Indians in the country are competent and what Indians are incompetent.

Mr. HENDERSON. Mr. Chairman, I do not know whether you care for a statement, because already the committee must know the position of the Red lake Indians.

The CHAIRMAN. You can simply say that your attitude with regard to that is the same as would apply to any other such proposition and that, that you are opposed.

Mr. HENDERSON. I thought that would save time.

Mr. ELSTON. You repeat the same argument that you gave before.

Mr. HENDERSON. Yes, sir.

Mr. MERITT. We are opposed to this amendment for the same reasons stated heretofore.

The CHAIRMAN. That will be passed for the present.

Mr. BALLINGER. On page 5, commencing with the word "that," in line 8, reinstate the matter stricken out in lines 8, 9, and 10. The matter stricken out which the council asks shall be reinstated is

That said copies shall be filed as aforesaid within 30 days after the final approval of said rolls by said commission.

That relates to the filing of the rolls of the incompetent Indians in the recording offices in the State of Minnesota, so that people may know what Indians are incompetent and puts a limitation of time upon the filing of those rolls. We think it is important.

Mr. MERITT. Mr. Chairman, if you will change the 30 days to 60 days, we have no objection.

Mr. ELSTON. That seems to be reasonable.

The CHAIRMAN. That is passed.

Mr. BALLINGER. On page 6, line 6, reinstate the word "forthwith." I will read the sentence so that you gentlemen will have the meaning before you. Commencing in line 4, with the commencement of that sentence:

Within six months after the completion of said rolls, the Secretary of the Interior shall forthwith pay or cause to be paid to every such adult Chippewa Indian whose name does not appear upon said rolls as an incompetent, all funds then standing to his or her individual credit.

Now, as it stands it provides that he shall pay. The other day we had the words "as soon as practicable" in a law, and 31 years expired after that and it was not done, and we want some word here inserted that will enable these Indians, if the Secretary does not pay it to him, to go into a court and compel the payment.

Mr. MERITT. We have no objection to that.

The CHAIRMAN. You agree to that? That is passed. What is the next?

Mr. BALLINGER. On page 10, line 9, reinstate the words "together with accrued interest." Let me read now the proviso.

Mr. ELSTON. Mr. Ballinger, we have the bill before us and there is no reason to read the whole thing over.

The CHAIRMAN. But we will hear your statement on it.

Mr. BALLINGER. The object and purpose of that is to enable the Indian at the time of the payment of a part of the segregated fund to him to receive his interest on the money.

Mr. ELSTON. Instead of having the interest payment deferred?

Mr. BALLINGER. Precisely.

The CHAIRMAN. Is there anything to be said on that, Mr. Meritt?

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 10 change the word "minor" to "adult." The bureau evidently made a mistake in inserting the word "minor," because the intent of that provision is to pay the money to the adults.

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. Lines 11 and 12, strike out the words in italics, viz, "upon his attaining his or her majority."

The CHAIRMAN. That is all right.

Mr. ELSTON. The word "adult" would import the attainment of majority.

Mr. BALLINGER. Certainly.

Mr. MERITT. That is all right.

Mr. BALLINGER. In line 14, strike out the word "of"—line 14, page 10—"at the expiration of the tenth year the total sum."

Mr. MERITT. We have no objection to that.

The CHAIRMAN. That is passed.

Mr. BALLINGER. In line 22 reinstate the word "shall."

The CHAIRMAN. And strike out the word "may"?

Mr. BALLINGER. Yes, sir. And in line 23 strike out the word "may."

Mr. ELSTON. Now, I don't know—that would leave a discretion in the commissioner, and if it is mandatory that he should pay it to any kind of minor or any kind of guardian, it might be a very unhappy thing. I can conceive of parents that would be no more worthy of receiving the money immediately—I am just suggesting this now offhand; I don't know what the objection of the department may be.

Mr. BALLINGER. I call attention to the fact that there is a further provision in this bill to enable the commissioner to withhold any funds from parents where proper use is not being made of them.

Mr. ELSTON. That means the money is already given to them. There is a contradiction there.

Mr. BALLINGER. That is future payments. The future payments can be withheld.

Mr. RHODES. I think the condition will be this: If the parent is a competent person to receive it, he should receive it; if not, some court or tribunal should designate the proper person and let that person receive it instead of allowing the fund to be retained in the department.

The CHAIRMAN. I am quite in favor of the word "shall," but very much opposed to the words "shall not."

Mr. ELSTON. Well, let us get the statement on that and then pass it.

Mr. MERITT. Mr. Elston has stated the position of the department in that matter. There may be a few cases where it would be undesirable to pay out this money to the parent or legal guardian; and in order to meet that situation we thought it better to have the word "may" rather than the compulsory word "shall."

The CHAIRMAN. We will pass that for the present.

Mr. BALLINGER. On page 11, line 2, after the word "child" insert "either of."

In line 2, strike out the words, "parent or." So that the provision would read:

And should any such minor child, either of whose parents are not enrolled as incompetents.

Mr. MERITT. We favor that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 19, after the word "all" insert "merchantable."

The object and purpose of that is to enable them to cut and dispose of all merchantable timber without denuding the land of all timber on it.

Mr. MERITT. There is no objection to that amendment, Mr. Chairman.

The CHAIRMAN. That is passed.

Mr. BALLINGER. Commencing with the word "which" in line 21 page 11, strike out the remainder of that line and all of lines 22, 23 and down to and including the figures "400" in line 24. The provision as drafted by the department is involved, and the object and purpose of this provision is to permit the sale of all the lands in or outside of reservations. As drafted by the department it would include only a part of them.

Mr. ELSTON. Well, without the qualifying reference to these acts it would then have the effect of canceling all previous acts and giving a blanket authority to dispose of all the timber.

Mr. MERITT. Except that that has already been disposed of under contract.

Mr. ELSTON. Of course, that would be a legal limitation. No act could interfere with any agreement already made. We can not refuse to sell something that has already been sold.

The CHAIRMAN. Let us see what Mr. Meritt has to say about that.

Mr. MERITT. We wanted this legislation tied up, as it were, with previous legislation enacted by Congress, and for the reasons stated by Mr. Elston we thought that language should remain in the bill.

The CHAIRMAN. That is passed for the present, unless Mr. Henderson has something he wants to say about it.

Mr. HENDERSON. I have not.

Mr. BALLINGER. Mr. Chairman, that is a very important thing to the committee, and when you come to take it up you will want to know about it. The lands that were classified as pine lands up there—and those will be the only lands here included under the provision as drafted by the department—did not include much of the valuable stands of timber in that country. Upon this swamp land that is to come back there are just as valuable stands of timber as upon the lands classified as pine lands, and this provision ought to be broad enough to enable the disposition of that timber.

The CHAIRMAN. I agree with you.

Mr. MERITT. We would have no objection to that language including swamp lands recovered—such language as you desire.

Mr. BALLINGER. You will see when you come to examine this section in committee that is is an unworkable proposition as presented by the department.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 25, page 11, reinstate the words stricken out, "belonging to the Chippewas"; and then, on page 12, commence-

ing with the word "except" in line 1, strike out the remainder of that line, all of line 2, and down to and including the word "reserve" in line 3. And let me make another amendment or two here, and then I want to read it to you as amended.

In line 6, strike out the words "said amendatory" and insert in lieu thereof the word "the."

In line 7, after the figures "1902" and before the colon, insert "Thirty-second Statutes at Large, page 400)."

Now, if you will permit me to read the text as amended:

That as compensation for losses sustained by the Chippewa Indians in Minnesota for the failure to sell and dispose of lands ceded to the United States in trust under the provisions of the act of January 14, 1899, and subsequently included in forest and other reserves, contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all merchantable timber on any such lands remaining undisposed of, including the timber on any or all of said lands, belonging to the Chippewas, and within the limits of any Indian reservation; said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform, as far as practicable, to the provisions of the act of June 27, 1902 (32 Stat. L., p. 400).

The CHAIRMAN. Is there anything further to be said upon that?

Mr. MERITT. Mr. Chairman, we are agreeable to the amendment in line 19, page 11, inserting the word "merchantable." We are opposed to striking out the language in lines 21 to 24, reading as follows:

which were classified as pine lands under the said act of January 14, 1899, and the amendatory act of June 27, 1902 (32 Stat. L., p. 400).

We have no objection to restoring the language in line 25, "belonging to the Chippewas."

We object seriously to striking out the language "except the Red Lake Reservation that has since January 14, 1899, been included in any forest or other reserve," for the reasons heretofore stated.

We do not object to the amendment suggested in line 6, striking out "said amendatory" and inserting the word "the."

We also have no objection to the amendment including the statute number.

Mr. ELSTON. For the reasons heretofore stated? Will you just state them?

Mr. MERITT. The reason is that we do not want the question of the title to the Red Lake Reservation attempted to be decided in the proposed legislation. We prefer that that shall go to the Court of Claims.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. On page 12, line 17, reinsert the words stricken out, viz: "and undisposed of."

In lines 17 and 18 strike out the words in italics, "and not included in any reserve and not disposed of." The departmental draft would relate only to lands that were not in reserves, and the object and purpose of the amendment is to include both reserved and unreserved land. For instance, you have up there four reservations ceded in 1889, that are still being maintained as reservations, and the object and purpose of this amendment is to catch those reservations and clean them up.

Mr. ELSTON. The words "disposed of" though might include sales. You don't intend to bring that into the purview of this act, lands disposed of by sale?

Mr. BALLINGER. No—and undisposed of.

Mr. ELSTON. Yes, I see.

Mr. HENDERSON. Mr. Chairman, the Red Lake Indians would be opposed to that change for obvious reasons.

The CHAIRMAN. State one or two of them.

Mr. HENDERSON. There is involved, of course, there, the fundamental question as to whether these lands have been ceded—whether what is within their diminished reservation has been ceded. That of itself would be sufficient, I should say, to induce them to ask that that provision be included.

The CHAIRMAN. Mr. Meritt, have you anything to say?

Mr. MERITT. No, sir; nothing in addition to what Mr. Henderson said.

The CHAIRMAN. That is passed for the present. What is next?

Mr. BALLINGER. The next amendment is on page 12, line 23, strike out the word "designated" and insert the word "appointed."

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. We have no objection to that change.

The CHAIRMAN. That is passed.

Mr. BALLINGER. On page 12, line 24, after the word "the" and before the words "general council" insert "the executive committee of the." That is the same question I called your attention to on page 1.

Mr. MERITT. We have already stated our objection to that proposed amendment.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On line 25, strike out the words: "and appointed by the Secretary of the Interior." In other words, the general council do not want to select a representative and then have him appointed by the Secretary of the Interior, because he may not make the appointment, and the amendment just agreed to in line 23 renders unnecessary the language I have asked to have stricken out.

Mr. ELSTON. My objection to the word "appointed" instead of "designated" was just predicated upon the fact that you were mentioning right after that word the only appointing power. Of course if it is intended here that the designation should be made by the general council and the appointment by the Secretary of the Interior, the words "designated" would be the proper word to be used up above.

The CHAIRMAN. Have you anything to say on that, Mr. Meritt?

Mr. MERITT. We have no serious objection to the proposed amendment by Mr. Ballinger, but we think it would be preferable to have the language remain in the bill as it is.

The CHAIRMAN. That is passed then.

Mr. BALLINGER. Mr. Chairman, right on that point, so you will get clearly the position of the general council on it; their object is not to have their representative man responsible for his position to the Secretary of the Interior. If they do, and he makes any complaint, they can remove him and get rid of him.

The CHAIRMAN. I think we all understand that.

Mr. BALLINGER. On page 13, line 2, after the word "land" insert the words: "including any timber thereon."

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. Will you state your reasons for that, Mr. Ballinger?

Mr. BALLINGER. (Reading:)

And upon a completion of the allotments herein authorized, all of said land, including any timber thereon, so remaining unallotted and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder.

That would take in the timber on the land.

Mr. RHODES. Wouldn't the timber be carried with the designation "land" anyway, because it is part of the realty, attached to the earth?

Mr. ELSTON. It seems to me that is the absolute, general right, as Mr. Rhodes says. The right to the land carries the timber with it.

Mr. RHODES. Let us hear his reasons.

Mr. BALLINGER. Ordinarily that is true, and if we were dealing with a court it would be unnecessary, but we are dealing with the Interior Department, where they construe things differently, and in the appraisal of the land the council wants them to take into consideration the value of the timber on it, and they want the language so clear that there can be no doubt about it.

Mr. RHODES. Has the department ever failed to recognize that principle of common law which means that land includes everything attached to the earth, including standing and growing timber, together with improvements erected thereon?

Mr. BALLINGER. I think I could cite to you several instances in which that has occurred, and that is why we are taking the over-precaution right here.

Mr. RHODES. I never heard of that anywhere in our system of English jurisprudence.

Mr. ELSTON. We have got that stated now, and I think the committee understands it.

The CHAIRMAN. We will proceed to the next.

Mr. MERITT. Mr. Chairman, we have no objection to that amendment, and I want to say that we always recognize that an Indian allottee owns the timber on his allotment unless there is specific provision of law which reserves the timber for the benefit of the tribe and simply gives the Indian the land.

Mr. BALLINGER. On page 14, at the end of line 8, insert the following:

Provided, That the Secretary of the Interior may dispose of so much of Cooper or Star Island in Cass Lake and so much of the land bordering on the eastern, south-eastern, and southern shores of Cass Lake and commonly known as Norway Beach, and the lands adjoining the western shores of Pine Point on Leech Lake, and the standing timber thereon as remains undisposed of, in tracts of limited areas for permanent or summer homes, hotels, or resorts, under regulations to be prescribed by the said Secretary and approved by the executive committee of the Chippewa General Council.

There are some of the most valuable sites for summer resorts to be found in the United States there. There are a large number of summer homes in that section to-day where homes have been constructed under revocable permits. Now, the object and purpose of this is to enable the Secretary of the Interior, under rules and regulations to be prescribed by him, to dispose of this valuable land to the best advantage of the Indians, and to preserve that country—this land—for summer homes and localities. Now, the last portion of it I expect the department will take exception to—"under rules

and regulations to be prescribed by the said Secretary and approve by the executive committee of the Chippewa's General Council. The reason they ask that is that the Chippewa's executive committee think they know more about the values of those lands and how they should be disposed of than the Interior Department, and this will require the department to consult them before they can be disposed of, so that they may submit whatever plans they may have to get the best returns for the Indians.

The CHAIRMAN. What have you to say on that, Mr. Meritt?

Mr. MERITT. Mr. Chairman, Mr. Ballinger has stated the objection of the Indian Bureau. The language that he has proposed is absurd when we consider it carefully. We have the Secretary of the Interior, a Cabinet officer, preparing regulations regarding the disposition of tribal property, and the Secretary of the Interior would be required to submit those regulations to the executive committee of the Chippewa Council for approval. Now, as they have brought out in this hearing, this executive committee of the Chippewa General Council is opposed by probably 40 or 45 per cent of the Indians of Minnesota, and the Secretary of the Interior would not want to be placed in that position.

The CHAIRMAN. It is simply a question for this committee or the Congress to determine which one of the two bodies they believe should have the power to direct the transaction.

Mr. ELSTON. Now, as to the balance of the amendment, you have no objection?

Mr. MERITT. We would want to look into this amendment very carefully, but inasmuch as it would be discretionary with the Secretary, with the language that I am objecting to stricken out, we would have no objection to the item going into the bill, but we would not carry out the legislation if it proved detrimental to the interests of the Chippewa Indians.

Mr. HENDERSON. May I ask a question of Mr. Meritt? This proviso is that the Secretary of the Interior may dispose of "so much." That is, the Secretary of the Interior now has power to dispose of this property?

Mr. MERITT. I think it would require legislation to give title to certain tracts of land up there for allotment purposes. We have executed business leases on some of those reservations, and resort properties have been constructed under the terms of those business leases. Some people have taken big chances in expending considerable money on property to which they did not hold title.

Mr. BALLINGER. And pay no taxes.

Mr. ELSTON. Do they pay rentals?

Mr. MERITT. They pay rentals.

Mr. ELSTON. Nominal rentals?

Mr. MERITT. Nominal rentals.

The CHAIRMAN. That will be passed for the present.

Mr. BALLINGER. On page 14, line 15, after the word "final" change the semicolon to a comma, and reinstate the matter stricken out in lines 15, 16, 17, 18, and 19.

Mr. KELLY. After the word "fund," is it not, instead of "final"?

Mr. BALLINGER. Yes.

Mr. ELSTON. That involves this same Red Lake proposition.

Mr. BALLINGER. Yes, sir; and I want to read that to you, so that you gentlemen will understand it:

All funds derived from the sale of said lands and other property shall be deposited in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund, except the funds derived from the sale of the property on the Red Lake Reservation, which shall be held in a separate fund and shall bear interest at the rate of 5 per cent per annum until the ownership thereof has been determined as hereinafter provided.

Now, Mr. Chairman, if this bill as proposed by the general council should be adopted, it will clean up the Red Lake Reservation. It will allot the lands and sell and dispose of all the other remaining property on the reservation, but will hold the fund to await the final decision of the court.

Mr. ELSTON. Then you only object—your objection is not to the holding of the fund, as it is to the omission of any authority here to sell those lands?

Mr. BALLINGER. Well, the bill with the amendment of the general council provides for the sale of those lands, and the disposition of them, and this provision holds the funds received to await the final decision of the court. In other words, it cleans up this reservation now and makes the disposition of the fund dependent upon the decision of the court.

Mr. RHODES. What do you mean when you refer to the decision of the court? Does that mean decisions anticipated because of the pending suit?

Mr. BALLINGER. There is another provision in this bill referring that very matter to the Court of Claims for final decision.

The CHAIRMAN. That is passed.

Mr. HENDERSON. I just desire to say that the Red Lake Band object to being cleaned up in just this way. They want to be cleaned up, but not in the way that this provision would do it.

Mr. ELSTON. Mr. Henderson, if any authority for the sale of Red Lake lands of any kind is kept out of the bill, would the Red Lakes still contend that they belong to the Chippewa Indians of Minnesota, and claim their part of this principal fund mentioned here as being part of the general tribe?

Mr. HENDERSON. Just so much as they were entitled to under the provisions of the agreements of 1889 and 1904.

Mr. ELSTON. In other words, they claim that the other Indians have no participation in their reservation, but that they have a participation in the surplus lands of other reservations?

Mr. HENDERSON. Hardly that, Mr. Elston.

Mr. ELSTON. It looks to me like that is what it means. They claim both ends, it looks to me.

Mr. HENDERSON. They claim that the Chippewa Indians of Minnesota have a right to participate in the very large surplus of their section over that ceded to all the rest of the Indians in Minnesota put together, but that they have not the right to participate in any proceeds from the diminished reservation which they understood to be theirs exclusively at the time the agreement was made.

Mr. ELSTON. Did they get their proportion of the sale of the surplus part of their reservation before it was diminished to the present extent?

Mr. HENDERSON. Have they received it up to this time?

Mr. ELSTON. Yes; in the way of participation.

Mr. HENDERSON. I assume that in the distribution of that fund they have received their proportion.

Mr. ELSTON. Then to that extent they have been on a parity with all other Indians of the Chippewas of Minnesota?

Mr. RHODES. And applying the same argument, would be entitled to participate in future disposition of the general fund?

Mr. ELSTON. I understand Mr. Henderson says they do make that claim.

Mr. KELLY. They claim that they shall be considered part of the Chippewa Indians, wherever it benefits them, but that they should be segregated when it is to their own benefit.

Mr. RHODES. I don't think that is a fair statement. Here is the statement as I understand it. They are a part of the Chippewa Tribe when it comes to participating in the tribal property; they are to enjoy exclusively that property which has been set apart for them exclusively up to this time.

Mr. ELSTON. No; I want to get that thing straightened out, because there seems to be a little inconsistency there.

Mr. HENDERSON. I would like to, at the expense of a little time, try to state it once more.

Mr. ELSTON. I think we have got that, Mr. Henderson. I did not mean by my statement to indicate any prejudice or to commit myself on the matter one way or the other. My mind is entirely open on that.

Mr. BALLINGER. On page 15, line 1, after the word "upon" insert the following: "and with the approval of the executive committee of the general council."

Now let me proceed and make one or two other amendments in the text, and then read it in its entirety as amended.

In line 2, reinstate the words stricken out, "or all," and after the word "all" insert the words "school equipment."

In line 3, before the word "and" insert the words "used for school purposes."

In line 4, after the word "Indians" insert the following: "Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable." So that the provision would read as follows:

That the Secretary of the Interior is hereby authorized to convey to the State of Minnesota, to be used as a part of the public-school system of said State, upon such terms as may be agreed upon, and with the approval of the executive committee of the general council, any or all school equipment, buildings used for school purposes, and any land or part thereof now reserved or used for school purposes for said Indians. Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable.

The object of these amendments is, first, to give the general council some voice, or at least require their consultation so that they may make suggestions to the department with reference to the school situation, so that the Secretary may have the benefit of that; and, secondly, that the conveyance to the State shall be of the school equipment and buildings actually used for school purposes. It would limit it to that, and then provides for the sale of residue lands at present held for school purposes, but which are unnecessary,

at the best price obtainable. Some of these schools have as much as 160 acres of land connected with the schools, and under this provision the Secretary could hand the whole thing over to the State. The Indians want a proper limitation on that.

Mr. MERITT. We object to the first amendment, "and with the approval of the executive committee of the general council," for the reasons heretofore stated in connection with a similar item in the first part of the bill.

We have no objection to the insertion of the words "or all equipment used for school purposes."

We also have no objection to the insertion of the amendment if one word is changed. The amendment reads:

Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable.

We would prefer that that word "shall" should be changed to "may," so that this language can not be construed to require the Secretary of the Interior to dispose of school buildings actually needed for school purposes for the Chippewa Indians.

The CHAIRMAN. Let me make a suggestion—this is for the benefit of the opposed parties here—on the question of the executive committee of the Chippewas having the right to object to this thing—what is the word you used in your amendment there?

Mr. BALLINGER. "And with the approval."

The CHAIRMAN. And with the approval. Why not say, "that the Secretary shall consult with the executive committee before" he prepares his rule for the purpose?

Mr. BALLINGER. Mr. Chairman, in view of my experience with the department, that would not be sufficient.

The CHAIRMAN. But you do admit here—now I am not going to go into a lengthy discussion—you do admit that the whole point of this provision is whether the Secretary of the Interior shall have the right to say what shall be done, or whether the executive committee of the tribe shall have the right to say?

Mr. BALLINGER. That is not the object.

The CHAIRMAN. But that is the effect of the whole thing. You can not get away from it.

Mr. BALLINGER. That may be the effect, but the object of it is to get better school facilities and better administration in that country.

The CHAIRMAN. I know, but when this committee gets ready and the House gets ready to decide that question it must say which one of those two parties or bodies shall have the final say.

Mr. BALLINGER. But couldn't it then be left to some other institution, a court or something else, to say whether or not it is a fair proposition?

The CHAIRMAN. I am speaking now of the thing that is before us.

Mr. ELSTON. Let us go on, Mr. Chairman.

The CHAIRMAN. Well, proceed. What is the next?

Mr. BALLINGER. On page 16, line 15, strike out the words in italics and reinstate the words stricken out in lines 15 and 16. Let me read one or two of our amendments and then I will read the text in its entirety as amended.

In line 17 strike out the words in italics and reinstate the words stricken out.

In line 17, after the word "and" insert "in his discretion other." So as amended it would read:

That the Secretary of the Interior be, and he is hereby, authorized to, within six months after the acceptance of this act, establish a town site at Red Lake and, in his discretion, other town sites on the Red Lake and White Earth Reservations, in State of Minnesota, and upon any lands ceded under the act of January 14, 1889.

Mr. Chairman, a law of Congress was passed 10 years ago authorizing the establishment of a town site at Red Lake. The town site was surveyed and laid out, but for reasons peculiar to the department the town site has never been established. The result is that a beautiful site for summer resorts lies there idle. People can not acquire title to the land, and the Indians are without facilities for markets for their produce. Complaint was made yesterday that Ben Fairbanks and John Morrison controlled the store situation on Red Lake Reservation. They do it because of the departmental policy. If this amendment is adopted it will throw Red Lake, a town site at Red Lake, open to the public so anybody can come in there and establish stores and provide markets for the produce of the Indians, and will develop that country. It will, in my judgment, mean an income to these Indians of from one hundred to three or four hundred thousand dollars a year in providing the market facilities.

Mr. RHODES. Is there a demand for a town site there?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. Is there a railroad there?

Mr. BALLINGER. No, sir; the railroad runs up to Redby, about 5 miles away, but if a town site is located here and if you can once get into this reservation, there would be railroads there and the Red Lake Indians can then have public schools and all of the other advantages that will come to the people.

Mr. ELSTON. Don't towns grow up naturally in areas where they are needed or do they have to be provided for in this way artificially?

Mr. BALLINGER. Around through that country, gentlemen of the committee, there are several settlements that approximate good-sized towns, where the people are living and have constructed buildings, without a shadow of title upon which their buildings rest; and that is the situation at Red Lake to-day. There are stores there worth \$10,000 to \$15,000 or \$20,000, constructed by gentlemen under a revocable permit, and this will enable this land to be sold for town-site purposes at an advantageous price to the Indians, and will bring to the Indians public school facilities, a market for their produce, and every other advantage.

The CHAIRMAN. Now, Mr. Henderson, have you got anything to say on that?

Mr. HENDERSON. Mr. Chairman, I have not had an opportunity to confer with the Red Lake Indians largely upon this question, but I do know that they are very strongly opposed to any such provision being included in the legislation at this time. I suppose that it is based upon the theory that until allotments are made their reservation should be as nearly their own as possible, and that allotment can be very much more safely made to them before the development of town sites on their reservation than afterwards.

Further than that, I feel that I would like to reserve my explanations or reasons until I have had time to confer with the Indians at

length. I do know, however, Mr. Chairman, that they are very strongly opposed to any town-site legislation at this time.

The CHAIRMAN. Have you anything to say, Mr. Meritt?

Mr. MERITT. Except to confirm the statement of Mr. Henderson that the Red Lake Indians are opposed to this provision. It is the entering wedge into the opening of their reservation. And there is another serious objection. If this provision is enacted, it would take the trading stores on that reservation out from under the jurisdiction of the department, and they would be in a position to charge whatever price they wanted to to the Red Lake Indians. Under present conditions we can keep the prices within the bounds of reason, but if this legislation were enacted there would be no restrictions on that matter.

Mr. ELSTON. Mr. Meritt, wouldn't the bureau uphold all the contentions of the Red Lake Indians that they want to remain isolated and unallotted, and not participate in what the bureau has always declared to be its policy with respect to most all reservations of opening them up as quickly as possible and following out a general rule? Now, what is there peculiar with the Red Lake Reservation that keeps it inviolated?

Mr. MERITT. I can state that in a very few words: I have stated it more extensively in the hearings heretofore. The department does not want to allot the Red Lake Reservation at this time for the reason that a large part of the land is swamp and needs to be drained; another part of the land is very valuable for timber.

Mr. ELSTON. I think you have gone into that. I remember it now.

Mr. HENDERSON. Mr. Chairman, if I may be permitted to say that I think there is a very good legal underlying the proposition which it would take considerable time to set out now. Later I would like to have the opportunity to present my views.

The CHAIRMAN. What do you have next, Mr. Ballinger?

Mr. BALLINGER. On page 17, line 9, before the words "General Council" insert the words "Executive Committee of the." That is the same question presented in the second amendment offered.

Mr. MERITT. We object to that for the same reason.

The CHAIRMAN. There is nothing to be said on that, I think.

Mr. BALLINGER. On page 18, line 24, after the words "Public school" insert the words "and park."

Mr. MERITT. We have no objection to that, Mr. Chairman.

Mr. BALLINGER. On page 19 reinstate section 5 with the following amendments:

In line 8, strike out the word "at;" in line 9, strike out the words "Bemidji, Minnesota"; in line 9, after the word "beginning," strike out the word and figure "July 8." In line 9, after the word "beginning," insert the following: "on the second Tuesday in July." So that it will read as amended:

To be held annually, beginning on the second Tuesday in July of each year, pursuant to the constitution of the general council.

The constitution and by-laws provide that each annual council shall designate the place where the next council shall be held, and that it shall be held on the second Tuesday in July. The language as it appears in the draft of the bill fixed it July 8, by inadvertence, each year, and fixed also the place as Bemidji, Minn. This merely makes the provision conform to the constitution and by-laws of the general council.

Mr. MERITT. Mr. Chairman, I suggest that Mr. Ballinger read the wording of the section as amended, and I would also like for the committee to note carefully the language in that section as amended.

Mr. BALLINGER. I will be very glad to do that (reading):

SEC. 5. That the sum of \$15,000, or so much thereof as may be necessary of the tribe funds of the Chippewa Indians of the State of Minnesota, is hereby appropriated annually for the period of five years to pay the expenses of the general council of said tribe to be held annually on the second Tuesday of July of each year, pursuant to the constitution of the general council of said Chippewa Indians of Minnesota; and the expenses in looking after the affairs of said tribe, including expenses of its necessary committees: said sum to be available to the 1st day of July during each of said five years, and said expenses to be approved by the president and secretary of the general council and certified to the treasurer of said general council, and as [in line 17, the word "but" wants to be changed to "so"] so approved and certified, to be paid: *Provided*, That said sum of \$15,000 shall be paid to the treasurer of said general council upon his first filing with the Secretary of the Treasury of the United States a good and sufficient bond to be approved by the said Secretary for the proper care and disbursement of any moneys received by him: *Provided further*, That the said Treasurer shall on the 30th day of July of each year render a true statement to the said Secretary of all funds received by him and disbursed or on hand.

Now, Mr. Chairman, just one word with reference to that. If this general council is given the powers that are asked in this bill there will be a great deal of work for it to perform. Annually this council has had to send representatives here to fight for an appropriation for its very existence. It has cost the tribe annually probably \$2,000 out of its trust funds to get an appropriation of \$10,000. Now if this appropriation is made continuously for five years, that expense will be saved to them and that \$2,000 can be used for more useful purposes.

Again, this provision provides that the money shall be paid to the treasurer of the general council, and under existing law it is provided that upon the approval and certification of the account by the secretary and president of the general council the money shall be paid, yet under the practice of the Indian Office, and notwithstanding the fact that the Comptroller of the Treasury has held that their approval and certification is a finality and that the Secretary of the Interior and the Indian Bureau have nothing whatever to do with it thereafter except to submit it for payment, those accounts are received here, lie here anywhere from two weeks to six months and sometimes a year, and then they are transmitted with adverse recommendations by the Indian Bureau, resulting in further delays, and are handled in the Indian Bureau by not less than 10 and I think I am more accurate when I say about 16 clerks, taking up the time of the Indian Bureau and costing the Government of the United States probably \$2,000 a year in clerical hire.

The CHAIRMAN. What have you to say about that, Mr. Meritt?

Mr. MERITT. Mr. Chairman, I wanted Mr. Ballinger to read the exact language of the committee, so that the committee could know what Mr. Ballinger is attempting to do in this bill.

First, they are attempting to raise the appropriation for the general council from \$10,000 to \$15,000; and, second, they are attempting to get an appropriation for a period of five years, a very unusual situation. In all my experience with Indian legislation, I have never known anyone to ask for an appropriation for five years in advance.

Mr. KELLY. Can Congress appropriate five years in advance?

Mr. MERITT. I doubt if Congress can appropriate for five years in advance.

The CHAIRMAN. They never would; that is a certainty.

Mr. MERITT. The third unusual situation in regard to this legislation is that the only power that the Secretary of the Interior has over these accounts is simply to transmit them to the auditor for payment, regardless of how they are expended. For example, the members of the general council have been paying themselves \$10 a day —

Mr. BALLINGER (interposing). No; Mr. Meritt, \$5.

Mr. MERITT. \$5 for hotel bills and \$5 a day in addition, making a total of \$10. They have also been paying Mr. Ballinger considerable money during the last two or three years.

The CHAIRMAN. He certainly has earned it. There is no question about it.

Mr. BALLINGER. They haven't paid me my expenses.

Mr. MERITT. The fourth unusual proposition is that the Secretary of the Treasury is required to pay over this \$15,000 each year at the beginning of the year and allow it to be expended without any check or balance, and later, at the close of the year, they are to submit an accounting.

Mr. ELSTON. Of course, Mr. Meritt, here is the theory—this is a conflict of two authorities. I suppose this general council is created as a separate body, as a check at least upon the bureau, to be independent of the bureau and to represent the Indians themselves, and nobody else, and to assert their rights as against the bureau. Now, they must be given self-determination to some degree in order that they be anything more than a mere reflection of the bureau. Now, the bureau can not expect to be dominant at its end and then create an agency to check it and create an independent agency which is supposed to have independent representation here and then to dominate that agency also. The two agencies should be absolutely separate. Now, how that can be done, I don't know, but the bureau can not expect to control something that it has created to check it.

The CHAIRMAN. That would be all right if the council was recognized by the Chippewas themselves.

Mr. MERITT. That is the point at issue.

Mr. ELSTON. I am speaking of the theory, Mr. Chairman, not of this particular instance. It looks to me that in pursuance of the policy of the department in making these people independent in their own affairs, giving them the right of self-government, teaching them how to look after their own affairs, you can not go meddling into everything they try to do independently for themselves.

Mr. MERITT. We do not want to do that, but we do want the council up there to be representative of all the Chippewa Indians, and between 40 and 45 per cent of those Indians are not now represented in this council and the 55 per cent are dominating the Chippewa situation to the detriment of the other 45 per cent and are making representations and endeavoring to get legislation that is opposed by at least 45 per cent of the Chippewa Indians. Besides that, this council is actually using moneys of the Red Lake Indians to maintain themselves down here while they are attempting to deprive the Red Lake Indians of property which they claim is their exclusive property.

Mr. KELLY. Has the mind of man ever conceived a better form of government, of representation, than the majority rule where the majority is recognized?

Mr. MERITT. That is true, that the majority should rule, but they may not be a majority. It may be intelligence overcoming inexperience, and it may be shrewdness overcoming a lot of incompetent Indians who do not know how to manage their own affairs.

Mr. KELLY. I understood you to say that 55 per cent was admitted to be on the side of the general council?

Mr. MERITT. I do not admit that they have 55 per cent representation. The full bloods claim that they have 80 or 90 per cent of the real Indians on their side, but when it comes to organizing a council they are very shrewd business men and very shrewd politicians, and they can usually control the conventions so that they will dominate the situation.

Mr. ELSTON. If the bureau would revise its regulations in regard to the conduct of these elections and let the thing go under those regulations and, instead of trying thereafter to block the action of the majority, if you absolutely make fair regulations for the conduct of the elections, and when the election is made, take the acts of the council, of the election, as representing the wish of the tribe, that is the only way that you can get along.

The CHAIRMAN. The difficulty as I see it is that there are at least four bands up there, and one of the bands exclude themselves from any part of the arrangement. Now, in addition to that you have the Indians that call themselves full bloods who do not participate in the proposition at all. It is just like four States; they might all have to be included in the general unity of the proposition whether they voted or not, but you have got a lot of incompetents to deal with. It is not really a question of States, and yet it assumes somewhat the proportions of them. We have got the same thing in the wet and dry situation now; certain States that rebel, and you have the same situation here. If we pass the legislation that is proposed here by the general council, it is objected to by a segregated set of Indians who do not agree at all, and the minute this legislation is attempted to be put into effect they are going to rebel and protest and litigate.

Mr. KELLY. Well, is the power of the Government to be limited by the rebellion of certain small minorities?

The CHAIRMAN. I should say no, but we are confronted here day after day with legislation desiring to go to the Court of Claims to adjust just exactly the same kind of matters that are going to be involved after this legislation goes into effect, if it ever does. I can see all sorts of claims and protests and difficulties that we are going to have to eventually straighten up the trouble that we are going to make by enacting this legislation, and yet it might be in the long run the proper thing to do.

Mr. BALLINGER. Mr. Chairman, there is a provision that I am going to offer at the tail end of this bill that will settle once and for all the question of elections in that country.

Mr. HENDERSON. Before we get to that Mr. Chairman, may I say briefly on behalf of the Red Lake Indians, that they ask to be excluded entirely from the effect of section 5.

The CHAIRMAN. There you go the first thing, you see.

Mr. MERITT. The Red Lake Indians refuse to have anything to do with the Chippewa general council. They refuse to have any representation on that general council and they repudiate the action of the general council.

The CHAIRMAN. Now, let me ask, beginning with section 6, we come into what we might call the jurisdictional part of the bureau, or this is what has already been introduced as a separate bill?

Mr. BALLINGER. I am going to come right to that.

The CHAIRMAN. Am I correct in that?

Mr. BALLINGER. Yes, sir; and I am going to take up now—let me complete the amendments to the other provision of this bill so it will be clear on the record.

On page 20, lines 1 and 2, reinstate the matter stricken out.

The CHAIRMAN. Do you object to that, Mr. Meritt.

Mr. MERITT. Yes, sir.

Mr. KELLY. That was included when you said section 5 should be reinserted.

Mr. MERITT. We are opposed to the insertion of section 5 in this bill, for the reason that I have stated, and also for the further reason that if there is to be any appropriation for the Chippewa council it should be made annually in the Indian appropriation bill.

Mr. BALLINGER. Now, Mr. Chairman, so that the administrative provisions may be altogether, I ask, now, to turn to pages 26, 27, and 28. Change section 5 to section 6. Let that follow on as section 6 of this bill.

On page 28 change section 6 to section 7.

Mr. MERITT. We have no objection to the amendments.

Mr. BALLINGER. On page 28, include section 8 in this bill as it appears in the committee print.

Mr. HENDERSON. I don't quite get that, Mr. Ballinger. Where would section 8 then come?

Mr. BALLINGER. Just in its regular rotation. The next section above that is section 7; then comes section 8 as it is numbered in the bill.

Now, include section 9 with the following amendments:

Lines 20, 21, 22, 23, and 24 reinstate the matter stricken out.

In lines 24 and 25 strike out the words in italics. Let me read that to you as we desire it first and then as the department desires it. I will read now the provision as desired by the council:

That all laws and parts of laws in conflict with this act are hereby repealed, and the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated, to defray the administrative expense in carrying out the provisions of this act.

Now, Mr. Chairman, so that there may be no question about this in the future, that provision as it stands would take that money out of the Public Treasury and not out of their trust funds. The council feels and insists that it has already paid out of its trust funds far more money than would have been sufficient to have administered this estate. Nearly 50 per cent of the entire proceeds received from the sale of property of the Chippewa Indians has gone into administrative expenses.

Mr. MERITT. Now, Mr. Chairman, we deny that.

Mr. BALLINGER. I am going to put the official figures into the record before I get through. Survey after survey has been made up in that country, classification after classification of timber has been made in that country; then years later on account of frauds committed by administrative officers, the work done was all thrown into the scrap heap; that is, it was done over again, and the money was

again taken out of the trust funds of the Indians, or appropriated by Congress and made reimbursable to cover the expenses.

Because of the waste of millions of dollars in the way I have described, the council asks Congress in common fairness to it to defray these remaining expenses out of the Public Treasury. The provision as offered by the bureau, which is supposed to represent the Indians, is not to take it out of the public fund, but to take it out of their trust fund. I hope I have made myself clear upon that point.

The CHAIRMAN. I think you have. Now, Mr. Meritt, what have you to say about that?

Mr. MERITT. The position of the bureau in this matter is simply this, Mr. Chairman: Congress has established the policy of paying administrative expenses for the administration on Indian reservations out of tribal funds where there are large amounts of money in the Treasury to the credit of those Indians. The Chippewa have in the Treasury of the United States at this time more than \$6,000,000 and we believe that inasmuch as certain of the Chippewa Indians are asking for the legislation herein, that it is only proper that the usual policy should be pursued, namely, that those funds should come out of the Chippewa funds rather than as a gratuity appropriation out of the Treasury of the United States.

The CHAIRMAN. Now, what have you got to say as to the waste of funds in administrative work?

Mr. MERITT. We deny that absolutely, and we want an opportunity to analyze any figures that Mr. Ballinger may place in the record, and furnish a true and correct statement of the situation.

In addition to my statement, Mr. Chairman, Mr. Ballinger is attempting to establish a precedent here that will enable him to strengthen the claim that the Chippewa Indians will later maintain against the Government, namely, that Congress has not heretofore had authority to appropriate moneys out of the Chippewa funds for administrative expenses. That is one of the contentions that Mr. Ballinger now makes and has made for some time, and if he can get this as a gratuity appropriation it will strengthen his position in asserting that claim against the Government.

The CHAIRMAN. I think that it is very clear to the minds of the committee that a platform or policy is laid out here for the purpose of later on making great claims against the Government for moneys that have been heretofore expended.

Mr. BALLINGER. Mr. Chairman, I want to be absolutely candid.

The CHAIRMAN. I think you have stated that several times.

Mr. BALLINGER. While that is true, this can not be used in any manner, shape, or form as a basis for such a claim.

The CHAIRMAN. I am not arguing that point.

Mr. BALLINGER. On the other hand, Mr. Chairman, I am perfectly willing that we shall write into this law right here a provision that in lieu of this appropriation out of the Public Treasury no claim resulting from timber frauds shall be brought in any court against the Government.

Mr. HENDERSON. Mr. Chairman, I would not on behalf of the Red Lake Indians be willing to have that substitute made, as I think the whole question can very easily be settled by a liberal provision being

allowed by the committee in its report on the jurisdictional act. I think such claims as are just for the maladministration of this estate should be allowed to go into the courts.

Mr. BALLINGER. Mr. Chairman, when they go into the courts we can not recover, we can not make proof that will entitle us to recover for these timber frauds. We can not show as a matter of fact—and it is wholly incumbent on us in a court to do it—that these were in fact frauds participated in with the knowledge of the higher officials. A mere mistake on the part of an administrative officer in the administration of affairs will not entitle the Indian to recover. He must show that which is either fraud or the equivalent of fraud, not only in the Government officer who conducted it but also in the principle, because there is a difference between agency on the part of the United States and agency on the part of the individual. The individual is bound by the act of his agent; the Government of the United States is not bound by the act of its agent, and we can not, when we come to a court, Mr. Chairman, under any view that you can take of this matter, recover back from the Government the losses that the Indians sustained in these timber transactions.

The CHAIRMAN. What is the next item?

Mr. BALLINGER. I want to go back just one line there on page 28 and strike out section 6 as it appears in the bill. That is lines 11, 12, 13, and 14. It is unnecessary for me to make any explanation of that. Those lines if permitted to stand would exclude the Red Lake Reservation from the operation of the law.

Mr. MERITT. Mr. Chairman, we are asking that that section be included in the bill.

The CHAIRMAN. And where will you have it?

Mr. MERITT. Exactly where it is now, or at the end of the bill. We have no choice as to its location in the bill.

The CHAIRMAN. Well, inasmuch as the other section has been transferred—

Mr. MERITT (interposing). I see no reason to transfer the section. Simply have section 7 changed to section 8 and renumber the other sections accordingly. The section that we want to be retained in the bill reads as follows:

That nothing in this act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation in Minnesota.

Mr. BALLINGER. Mr. Chairman, if you include the Red Lakes in the rolls and the allotments, then that provision ought not be excluded; if, on the other hand, you exclude the Red Lake Reservation from the operations of the bill, then that provision ought to be included.

Mr. MERITT. Mr. Chairman, I will state that we had a more stringent section drafted in the Indian Bureau, and Mr. Ballinger, with his usual eloquence, prevailed upon us to adopt his draft of this section.

Mr. BALLINGER. Reserving the right to object to it.

Mr. MERITT. Mr. Ballinger drafted this section, and in order to meet his views as nearly as we could, we accepted his draft instead of our own. We had been very liberal with Mr. Ballinger in connection with this legislation.

Mr. KELLY. Of course, the words that he has placed in there, "as herein otherwise expressed or provided," he intended to get in before that—all these matters dealing with the Red Lakes.

Mr. MERITT. We recognize the smoothness of Mr. Ballinger in this matter.

Mr. BALLINGER. Mr. Chairman, I don't like this smoothness business. I don't like those things to appear in the record.

The CHAIRMAN. That is just a figure of speech. We had charges made here yesterday against the bureau of everything but murder, and we let them all go in. However, I am willing that the word "smoothness" should be stricken out.

Mr. BALLINGER. Mr. Chairman, right on that point, some of you gentlemen do not appreciate what it means to a lawyer who comes before the committee and who has that kind of language used in connection with him, and the document circulated around, and the next thing he knows his character is gone, until many lawyers hesitate about appearing before a committee of Congress, solely because of the use of such language.

The CHAIRMAN. Well, if you desire it, we will strike out the word "smoothness" and put in the word "ability." [Laughter.]

Mr. MERITT. I am willing to accept as a substitute "smoothness and ability."

The CHAIRMAN. We will pass on to the next amendment. Now that brings us back to section 6, to what was known as section 6.

Mr. BALLINGER. If you will turn now to H. R. 12972, we will use that as the basis.

The CHAIRMAN. Now let us discuss first the propriety of including this legislation in the administrative bill.

Mr. HENDERSON. Have we passed to the jurisdictional?

The CHAIRMAN. That is what we are getting ready to pass to.

Mr. HENDERSON. I want to have a chance to say that the Red Lake Indians will have a substitute to offer for section 7 at the proper time: the form of section 7 is not satisfactory to them.

The CHAIRMAN. Very well. Now, the question has been raised as to whether or not it was wise to have a jurisdictional bill included in what might be called the administrative bill, and that I am willing to listen to discussion on, as to the propriety, whether that ought to go into this bill or whether it ought to go into a bill by itself.

Mr. BALLINGER. Mr. Chairman, there are substantial reasons why it ought to be all put together, and I want to point those out to you. If you will turn to section 2, page 11, of the administrative bill, you will observe a provision—and, I think, similar provisions occur in the bill as drafted—you will see that it is provided:

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserves, contrary to the intent of said act, * * *

You authorize a change in the manner of selling the property, the remaining property. If that bill should fail to become a law and the jurisdictional bill should pass separately, the Indians would, in my judgment, take judgment against the United States in a sum varying from five to eight millions of dollars. That is what that provision means in section 2, that the Indians, in consideration of the change in

the manner in which you shall sell the remaining lands, surrender and quitclaim to the United States their claims against the United States for locking up and holding those lands in forest and other reserves for 31 years, in violation of the agreement of 1889. Therefore, I say, that if for no other reason, those two, both the administrative and jurisdictional provisions, should be tied together so that when they are enacted into law it will be complete and that claim can not then be presented to the court.

Now, there is another reason that I suggested. If you enact this law, this administrative provision, it will liberate these Indians. It will mean a saving to the United States of claims of at least \$8,000,000 if you tie the two of them together. If you separate them it is going to pile up claims against the United States and then subsequently, after you have gotten court judgments and decisions, they will come along and get this kind of administrative relief.

Again, I observe that whenever a jurisdictional bill comes up on the calendar in the House somebody objects to it because it probably takes some money out of the Treasury of the United States. If they are tied together and the House can be made to understand that this cleans up the Chippewa matter, cuts out at least \$8,000,000 against the United States, I don't believe there will be as many objections to it as there otherwise would be.

Mr. HENDERSON. Mr. Chairman, on behalf of the Red Lake Indians, who feel that they have made such a tremendous contribution to the fund by reason of their large excess of cession of lands, to which there seems to be at the present time very little hope of recovering from the rest of the Minnesota Chippewas, we would not like to have any interest that may exist there in valid claims disposed of in the way that Mr. Ballinger proposes, and therefore if that is going to be the effect of this legislation it is a very strong argument from our point of view toward the separation of the two branches—the two parts of the legislation.

Mr. KELLY. Mr. Henderson, you do not certainly want us to go into the House and fight this proposition as indicated by this hearing twice, do you?

Mr. HENDERSON. Well, I think half a loaf is better than no loaf at all, and I think, Mr. Kelly, that the crux of this whole matter will be over when the Court of Claims passes upon the questions that will be presented to it in these claims. I think that is the legislation that is really needed to settle differences among the Chippewa Indians.

The CHAIRMAN. You have reference now to the jurisdictional bill?

Mr. HENDERSON. I have reference to the jurisdictional bill.

The CHAIRMAN. You think that bill ought to pass, and you don't think the other one ought to?

Mr. HENDERSON. No; I don't say I don't think the other one ought, but I think the passage of the jurisdictional act will settle the bulk of the troubles.

Mr. BALLINGER. It will settle Red Lake.

Mr. HENDERSON. It will settle a large part of the troubles among the Minnesota Chippewas.

The CHAIRMAN. Have you anything to say, Mr. Meritt? Now, this is on the point of whether or not it shall be included as one bill, or whether it ought to be two.

Mr. MERITT. I think it would be more desirable that the administrative bill and the jurisdictional bill be separated, for the reason that it will be more or less confusing when it goes on the floor of the House and Senate; and for the further reason that it will be more difficult to get the two bills through as one bill than it will be to separate the bills and get them through Congress. For example, I happen to know now that one Member of Congress says he will kill the jurisdictional bill when it comes on the floor of the House. I do not care to mention his name.

Mr. KELLY. Who is the one man that has power to kill any bill?

Mr. MERITT. It is almost impossible now for legislation to get through with the opposition, the serious opposition, of a Member of Congress from the State where the Indian legislation arises. That has been our experience in the past.

Mr. KELLY. I never knew that there was any one individual Member of Congress that was able to overthrow the wishes of all the rest of the Members.

The CHAIRMAN. He can make a nasty fight, though.

Mr. MERITT. He thinks he has very good reasons for that position, and I am simply citing that as an illustration of why it is desirable to keep these bills separate.

The CHAIRMAN. I don't think I would have to guess very long to guess who it was.

Mr. MERITT. We want to wind up the affairs of the Chippewa Indians just as quickly as possible but I think you will find that if the two bills are joined together they will never be enacted by Congress.

The CHAIRMAN. All right, then, we will pass that for the time being and see what the amendments are to it as it exists.

Mr. BALLINGER. Mr. Chairman, I have it in my notes as additional sections to the bill. Shall I consider it in that form or shall I consider it separately?

The CHAIRMAN. I would like to take it up as it is in the present bill here, beginning with section 6, because that is before all of us. I understand it is exactly the same thing.

Mr. BALLINGER. No, it is not; there are changes.

The CHAIRMAN. Well, you can point out those changes as we come to them.

Mr. MERITT. I think, Mr. Chairman, that there are so many changes that if he desires to consider the regular jurisdictional bill, H. R. 12972, it would be separate.

The CHAIRMAN. All right, we will consider H. R. 12972.

Mr. BALLINGER. Mr. Chairman, I refer now to H. R. 12972. The council asks that that bill be adopted as additional sections to the administrative bill and put in one bill, and if that is done, then they ask that on page 1 the first section be changed to section 10—be numbered as section 10.

On page 2, change section 2 to section 11.

In line 19, page 2, after the word "thereof" insert the following: "and lawfully chargeable against said tribe or any band thereof." Let me explain that provision. It is necessary for me to read from section 2:

That if any claim or claims be submitted to the said court, it shall settle the rights of any of the parties thereto, notwithstanding the lapse of time or the statute of limitations, and any payment which may have been lawfully made upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in such suit or suits, and the United States shall be allowed credit for any sum or sums, including gratuities heretofore paid or expended for the benefit of said tribe or any band thereof.

Now after the word "thereof," I ask to have included: "and lawfully chargeable against said tribe or any band thereof."

The CHAIRMAN. That cuts out the necessity for putting in the word "gratuities."

Mr. BALLINGER. Now, Mr. Chairman, this tribe has been in existence 100 years or more. It has been dealing with the Government for 100 years or more.

The CHAIRMAN. Isn't that the effect of the last language that I have just stated?

Mr. BALLINGER. Absolutely. I think that is the effect of it.

The CHAIRMAN. So if we strike out the word "gratuities," it is unnecessary to put in the language you have just suggested?

Mr. BALLINGER. Precisely. Now what is the situation? I don't know what gratuities they refer to, but if that is intended to include these appropriations that Congress has been making for support and civilization—and that is what I take it the Indian Office is driving at—and they are to be included as gratuities, it would prevent the tribe from recovering any money back.

Mr. KELLY. Now, Mr. Ballinger, let me ask you a question for my own information.

Mr. Mann objected the other day to a bill in which we left these words out "including gratuities," and I made the statement, which I thought was correct, that the Court of Claims has ruled that in such bills as this these gratuities shall be considered as set-offs and counterclaims.

Mr. BALLINGER. I think you were correct, that every appropriation that has been made from the Public Treasury for these tribes during more than a hundred years you can go back and bring in and charge up against them. It is manifestly unfair to go back 100 years ago, when the policy of the Government was to maintain these agencies for the benefit and protection of the white people and not for the Indians, and it made gratuitous appropriations for the support of those agencies, to now come back and charge up against these Indians every dollar that has been appropriated during more than 100 years. Now, if you will put in there the words that I refer to, you will put a limitation upon the items to be charged against the Indians, and I certainly think that it would be unfair to the Indians to leave it as it is drafted by the department.

Mr. RHODES. I want to ask you a question, Mr. Ballinger. I see in section 2 here reference is made to statutes of limitation. Are there any sort of claims that the Government has undertaken to bar by statutes of limitations?

Mr. BALLINGER. I don't think that that language is necessary, except that we have statutes that no claims against the United States shall be prosecuted after six years. I believe that is the Indian depredation act.

Mr. RHODES. Is it the intention of this statute to repeal all existing statutes of that nature?

Mr. BALLINGER. I think that would be the effect, if there are such statutes. But, Mr. Rhodes, let me call your attention to the fact that these Indians never, at any time, could have gone into a court and asserted a claim against the United States. That can only be done when the sovereign gives the Indian the right by jurisdictional act to go in and bring his suit. That right has thus far been withheld from the Chippewas, and in view of that I think it would be fair—

Mr. RHODES (interposing). To my mind it is clear there is an intention to repeal existing statutes of limitations.

Mr. BALLINGER. On both sides.

Mr. RHODES. If there is reason for it, it ought to be there, and if there is no reason for it, it ought not to be there.

The CHAIRMAN. I think the policy of the committee has been not to force the Indian to pay back moneys that have been gratuitously paid in the interest of the Indian without his knowledge or consent.

Mr. BALLINGER. That is a fair proposition, Mr. Chairman. That is all they ask.

The CHAIRMAN. We tried in the last appropriation bill and got all the figures together and endeavored to cancel something like \$8,000.-000 worth of items that had been spent in behalf of the Indians as gratuities, some of them under the guise of reimbursables, but we were unable to do it, due to the same thing that killed the bill on the floor the other day. So it might be possible in cases of this kind to set up against the Indian claims moneys that have heretofore been appropriated, either as gratuities or as gratuities under the guise of reimbursables.

Mr. KELLY. I think that amendment should be in, Mr. Chairman, by all means.

The CHAIRMAN. We will pass it for further consideration, but I think, since Mr. Ballinger says that the Supreme Court has held that to be the law if he will point out the law or the decisions of the court and send it to the chairman of the committee here we would be glad to have that information. We may have it here now.

Mr. BALLINGER. I shall be glad to do that.

Mr. MERITT. Will you furnish us with a copy of that, Mr. Ballinger?

Mr. BALLINGER. In conducting a case, Mr. Meritt, I always furnish my adversary with a copy of anything I leave with the court or committee.

In line 22, page 2, after the word "amendment," insert the words "at any time during the progress of the suit."

Mr. Chairman, I deem that important for this reason: That many of the records in connection with this controversy are buried in the department, and if during the progress of the suit new matters may come to the front, either in favor of the Government or in favor of the Indians, that ought to go before the court, we can amend our bill and put them in and get them before the court.

Mr. MERITT. We have no objection to that amendment. We also have no objection to the other amendment, Mr. Chairman, if the Supreme Court has rendered the decision that Mr. Ballinger states it has.

Mr. BALLINGER. On page 3, line 11, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such certified."

In line 11, after the word "thereof," insert the words "free of cost." So that lines 10, 11, and 12 will read, "shall give the attorney or attorneys of said tribe or bands thereof access to any letters, papers, documents, or public records and shall furnish such certified copies thereof free of cost as such attorney or attorneys may deem necessary."

Mr. CHAIRMAN, it is incumbent upon the attorney to pay all the costs of this litigation, and if in addition to the ordinary costs he has got to go up there and pay the department for each certification and copy, it would cost probably \$25,000 in certifications.

Mr. MERITT. We have no objection to that amendment with this understanding, that the attorneys will not burden the department unnecessarily by asking for papers that are not necessary in the litigation. The attorneys in this case could keep all the clerks of the department busy copying files, because our files are full of Chippewa papers.

The CHAIRMAN. Who is going to determine the question?

Mr. BALLINGER. If an unreasonable request was submitted, the department would refuse it, and then we would have to go over to the court, and the court would say whether or not it was a reasonable or unreasonable request.

Mr. MERITT. With that statement in the record we have no objection to the amendment.

The CHAIRMAN. Now what have you next, Mr. Ballinger?

Mr. BALLINGER. On page 3, renumber section 3 as section 12.

On page 4, renumber section 4 as section 13.

On page 4, lines 8 and 9, strike out the words "under contract or contracts made and approved, as provided by existing law," and insert in lieu thereof the words "by their general council."

Now, Mr. Chairman, I want to call your attention to this, because this same question will arise in connection with three different provisions in the bill—I want the committee to know exactly what we are asking here—the section commences:

That upon the final termination of such suit or suits, the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits, to be paid the attorney or attorneys employed therein by said tribe or band of Indians.

Now, there the court has the exclusive power of saying what is just compensation, and that is fair because when the services have all been rendered before the court, the court is then in a better position than any other tribunal to say what is just compensation to the attorney. But the department wants this language included: "under contract or contracts made and approved as provided by existing law." With that language it would be necessary for me, for instance, or the attorney representing these Indians, to first enter into a contract with the Indians providing a percentage of compensation; then to take that to the department without one particle of work having been done, and the department, projecting its mind into the future, fixing the amount of the fee; then when we come back to the court, the court would necessarily consider what the department thought was fair in the first instance. That would all be taken into consideration by the court, and then it would allow the attorney his fee, but in no event could the department or anyone else go over 10 per cent.

Mr. KELLY. Under this provision here would the department have the power to say anything concerning the attorney to be selected?

Mr. BALLINGER. Yes, sir. That is the very object of the provision. The department—and it has done that before—could say to the general council of the Chippewa Indians, after it had selected, and entered into a contract with an attorney: “No, we will not approve a contract with that attorney. You must select someone else.” I recall, Mr. Chairman and gentlemen of the committee, back under an administration of that department where a former member of the House of Representatives, one of the most distinguished lawyers from his section of the country, had a contract with the Cherokee Indians in Oklahoma, but because the Secretary of the Interior didn’t personally like him, he rejected and turned down the contract, and a gentleman from the secretary’s own home town obtained that employment.

Now I want to say to you that I am making these observations irrespective of any personal interest. I do not know that I would personally care to undertake this litigation. It is going to be immense litigation and require an enormous amount of work, and I do not know whether I would undertake it. It would depend entirely upon the condition of my health and my other business affairs. But I say this in common fairness to my clients, that they ought not to be put in the position where the department can select for them the attorney who is to prosecute a case against the department.

Mr. MERITT. Mr. Chairmen and gentlemen of the committee, we went over this legislation very carefully with Mr. Ballinger, and we agreed on this provision in the bill. Now, after reaching that agreement Mr. Ballinger comes before the committee and suggests this change. This is an exceedingly important change in this proposed legislation which will establish a precedent that will be very dangerous indeed in connection with Indian claims against the Government. Under existing law sections 2103, 2104, 2105, and 2106, of the Revised Statutes prescribes the legal process by which attorneys may enter into contracts to represent Indian tribes before the courts. The experience of the department in handling Indian Affairs has demonstrated conclusively that that legislation now on the statute books is exceedingly wise. Congress has in the past made exceptions to that rule, as is proposed here in this bill.

Mr. KELLY. Right there, Mr. Meritt, those sections in the statutes do not take into consideration at all that any court is going to fix the fee to be paid of less than 10 per cent of the amount recovered.

Mr. MERITT. The statute requires certain legal formalities to be followed which are very necessary in order to protect the interests of the Indians and the Government.

Mr. KELLY. Unless some court is also going to have something to say about it.

Mr. MERITT. Just such an amendment as Mr. Ballinger has suggested here has in the past resulted in scandal. As I have pointed out to this committee in this hearing, in the Ute judgment case the attorneys recovered a fee of a quarter of a million dollars. In a certain Oklahoma case the attorneys recovered a fee of three-quarters of a million dollars, \$750,000 attorney fees.

Mr. KELLY. Did any court have the power to review that and fix the fee?

Mr. MERITT. The fees in those cases were fixed by the same court that Mr. Ballinger now proposes shall fix the fee in this case.

Mr. KELLY. Did they have authority under the legislation to fix the fee?

Mr. MERITT. They did, and they did fix the fee.

I called the attention of the committee a few days ago to the fact that there were a large number of outstanding illegal contracts with Indian tribes, and if they can establish this precedent in this legislation it breaks down the jurisdiction of the Interior Department over these contracts and will result in great scandal in connection with Indian affairs.

Mr. KELLY. Let me ask just this for my own information. I want to get the facts of this matter.

Here is a case in which one contention is upheld by the Indian Bureau. Now, under the provision that the Secretary of the Interior has practically the power to select the attorneys, he is going to have both sides of the contention without the Indians being given their side of it.

Mr. MERITT. They make that argument, gentlemen of the committee, but that does not work out in practice. We are quite willing for the Chippewa Indians to select their own attorney, and we are quite willing that that attorney shall be Mr. Webster Ballinger, if agreeable to the Chippewa Indians and to Mr. Webster Ballinger, but we want that contract approved according to existing law, and so that those forms and regulations prescribed by law may be followed. No tribe of Indians in this country that needs an attorney will have any trouble in getting an attorney. For example, when it was clearly demonstrated that the Red Lake Indians needed an attorney to protect their interests, they had no trouble in getting an approved contract through the department under existing law, but the interests of the Red Lake Indians are protected in that contract, and the interests of the Government are protected.

Mr. KELLY. That is what I was going to ask, have there been cases in your knowledge where the department used its authority to refuse to allow Indians to employ the attorney of their choice?

Mr. MERITT. Since my connection with the department in an administrative position I know of no such case. It might have happened years ago, but a thing like that would not happen now.

The CHAIRMAN. I think you are overlooking the Osages, aren't you?

Mr. BALLINGER. Don't you know that Judge Springer came up with an approved contract, a contract made with the Cherokees, and that the then Secretary of the Interior refused to approve it and turned around and approved a contract with a gentleman from his home town?

Mr. MERITT. That was before my time, and I do not know anything about the case.

Now as to the Osage Indians, the department has taken the position that it is perfectly willing that the Osage Indians shall have an attorney, but there is a desperate factional fight among the Osage Indians. The mixed blood Osage Indians have attempted to name a man who is objectionable to the other faction, the full bloods. The mixed bloods selected an attorney who had fought against the inter-

ests of the Indians in a tax suit in a case where the department has taken the other side and has recently won that case in the Supreme Court of the United States against the contentions of this attorney that the mixed bloods attempted to employ. The Osages will have no trouble at all in selecting an attorney if they will simply get together and select a reliable man.

Mr. KELLY. And the Secretary will say who the reliable man is—whether he is reliable.

Mr. MERITT. We will not attempt to dictate who that man shall be, but the department will take the position that an attorney should not be employed where there are certain valid and substantial reasons why he should not be so employed.

Mr. KELLY. Personally, Mr. Chairman, I would rather see a limitation placed of 1 per cent under the Court of Claims than to give the power into the hands of the Secretary of the Interior to name the attorney.

Mr. RHODES. Mr. Meritt, does this same law which authorizes the department to approve the attorney's contract, also give you authority to fix the fee?

Mr. MERITT. We can fix the fee, but in our—

Mr. RHODES (interposing). You say you can or can not?

Mr. MERITT. We can under the law fix the fee, but as a matter of fact we would work this fee proposition out so that the Court of Claims and the Secretary of the Interior would adjust the matter.

Mr. RHODES. I am speaking of existing law. Under existing law, does the department have the right to fix the attorney's fee?

Mr. MERITT. We can fix the attorney's fees under existing law, or we can have an arrangement with the Court of Claims and reach an agreement.

Mr. RHODES. What are you doing? Are you exercising that authority yourselves, or are you exercising it jointly with the Court of Claims?

Mr. MERITT. We sometimes exercise it jointly with the Court of Claims. We sometimes designate a certain salary that shall be paid the attorneys, or we sometimes designate the limit of the percentage that shall be paid, depending upon each individual case and the work to be performed.

The CHAIRMAN. The usual practice is to consult with all the parties, even with the attorney himself?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And you usually come to an agreement?

Mr. MERITT. The attorney that would be employed here would have a say as to the terms of the contract when he entered into the contract.

Mr. BALLINGER. And you could say who the attorney would be.

Mr. MERITT. I have stated that there would be no objection to your employment as attorney in this matter.

Mr. RHODES. One other question, Mr. Meritt. In the fixing of these contingent fees, do you undertake to fix that fee before the work is done, or is it fixed after the service is rendered?

Mr. MERITT. We would in this case—

Mr. RHODES (interposing). No; I am talking about under existing law and practice.

Mr. MERITT. As I stated before, we do not have any definite practice on that. It depends upon the case in hand.

Mr. RHODES. Very well. When do you think the court, or the department, either, as the case may be, would be best prepared to determine just compensation, before the service is rendered or after the service is rendered?

Mr. MERITT. After the service is rendered. But we would want the forms of the law complied with.

The CHAIRMAN. As I understand it, whatever fee you agree upon, it is subject to final review in court?

Mr. MERITT. Not always; but in this case the Secretary of the Interior, the Commissioner of Indian Affairs, and the Court of Claims would probably cooperate in determining what would be a reasonable and just compensation.

Mr. KELLY. How could you cooperate with the Court of Claims if Mr. Ballinger brings in a contract into which he has entered with the Indians before any services are rendered at all, and you must approve it?

Mr. MERITT. We could have the terms of the contract so and so.

Mr. KELLY. That is, on a percentage basis?

Mr. MERITT. On a percentage basis. Not to exceed a certain percentage.

Mr. KELLY. Then you would approve it before any services were rendered at all?

Mr. MERITT. Yes, sir. They attempt to do the same thing right here in this legislation.

The CHAIRMAN. Now, gentlemen, the time for recess has arrived. We can not finish this matter to-day, and we have another matter to take up to-morrow. Now, I would like to ask Mr. Meritt how long do you think it will take to finish that Crow proposition?

Mr. MERITT. I think we will be able to finish that in an hour.

The CHAIRMAN. Then if the parties to this matter are here, they can step right in and we will try to finish both of them to-morrow, and we will now recess until 10.30 to-morrow morning.

(Whereupon, at 1.05 o'clock p. m., the committee recessed until 10.30 o'clock a. m., Friday, March 19, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
March 19, 1920.

The committee this day met, Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. We will continue with the Chippewa hearing that was adjourned last evening. Proceed, Mr. Ballinger.

STATEMENT OF MR. WEBSTER BALLINGER—Resumed.

Mr. BALLINGER. I want to ask the advice of the committee whether at this point I might insert in the record an extract from a decision that I think will answer Mr. Kelly's question propounded to me yesterday.

The CHAIRMAN. Before you do that I would like to have the clerk point out where we stopped yesterday on this matter.

Mr. MERITT. Page 4 of the jurisdictional bill.

Mr. BALLINGER. Mr. Chairman, the question was asked in connection with the amendment proposed by the general council in line 19, page 2, of the jurisdictional bill, and a question also propounded by the chairman was whether or not the word "gratuity" as it appears on that page would enable the court to render judgment against the Indians for every dollar that had been appropriated and expended in connection with the tribe from its beginning. I cite now the case of the United States v. Sisseton and Wahpeton Indians, reported in 208 U. S., commencing at page 561. The first jurisdictional act was passed March 3, 1901, and authorized the court to state an account and to submit its findings to Congress. In the stating of the account this provision was contained in the jurisdictional act:

Stating in connection therewith what credits should be charged against the said gratuities on account of the lands, appropriations, payments, gratuities or other provisions as hereinbefore stated.

A suit under that jurisdictional act was brought in the Court of Claims. During the progress of that case it became apparent that under the word "gratuities" as used in the jurisdictional act the court would make a finding charging the Indians with every dollar appropriated by Congress in connection with the tribe. The attorneys for the Indians at that stage came back to Congress and secured a new jurisdictional act under date of June 21, 1906, reiterating the same language and with this addition, "which are properly chargeable against said unpaid annuities."

The attorneys believed that that language would afford them relief against the court charging the Indians up with all gratuity appropriations.

When the case came before the court under the new jurisdictional act, the contention of the Indians was as stated in the decision, which I will read from page 564. The court said:

The Indians contend that only sums specially charged by Congress against annuities come into the account while the United States goes to the opposite extreme. We agree with the Court of Claims that the contention of the Indians, at least, must be rejected for the reasons stated by it that if it was correct Congress did not need the help of the court. The figures were patent.

So that if this bill should stand as the department asks that it stand every dollar appropriated by Congress from the inception of the Government's dealings with the Chippewas for the support of the agents and agency employees would be charged against any judgment the Indians might obtain against the Government, Mr. Chairman, which would be manifestly unfair. Every dollar that Congress in any act declares should be chargeable or that the Indians understood when they used the money was to be reimbursed or was chargeable against them ought to be charged and not another dollar.

Mr. MERITT. Mr. Chairman, I think it is unnecessary to go into this matter. I stated to the committee that we would have no objection to the item going in the bill.

Mr. KELLY. Let me have that information. I made a direct statement to Mr. Mann on the floor and it may be possible it is just what I wanted on it. The statement was that without the words "including gratuities in this act or bill the Court of Claims would consider gratuities anyhow. I have quoted the decision. Does that cover it?"

Mr. BALLINGER. I think it would.

The CHAIRMAN. I think that is as far as you can go.

Mr. KELLY. I think that would cover it and there is no question there.

The CHAIRMAN. What is the next item? If Congress can make an amendment on that, that is the important thing in there.

Mr. BALLINGER. That is one of the important things, but the matter under consideration is a most important one. The amendment that was under consideration is on page 4, lines 8 and 9, strike out the words "under contract or contracts made and approved as provided by existing law," jurisdictional bill, H. R. 12972. The general council asks that the words be inserted "by their general council" so that it would read:

That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the service rendered and money expended in the prosecution of such suit or suits to be paid the attorney or attorneys employed therein by their general council.

The insistence of the Indian Bureau that the words "Under contract or contracts made and approved as provided by existing law" be retained would require the approval of the contract under sections 2101 to 2107 of the Revised Statutes. As this same question arises in connection with two or three sections of the bill I am going to ask the indulgence of the committee for a few moments, so that I may make the position of the general council clear as far as I can. This section of the Revised Statutes, section 2101, was a part of the act enacted April 10, 1869; section 2102 was a part of the act enacted May 15, 1870; section 2103 was a part of the act enacted March 3, 1871; section 2105 was a part of the act enacted March 3, 1871, and likewise section 2107.

Now, Mr. Chairman, at that time the department held the funds of the Indians under its control. It could make contracts with an attorney or other person and without authorization of Congress pay the contract money out of the tribal funds. Those sections were designed and intended to deal with a situation that existed then and which has no existence to-day. For instance, contracts made now for the payment of money, tribal money, must come to Congress and the money be appropriated by Congress, so that there is that safeguard now which did not exist at that time. Had it existed at that time these sections would probably not have been rendered necessary for the protection of the Indians, and the only object and purpose of those sections was to first see that some competent tribunal could first determine that an attorney was necessary, and, second, to see that the compensation was fair and just.

In the present case the only object of the department in asking the approval of this contract, the only object which it can possibly have, is to control the employment of the attorney; that is, to name the attorney, because under the provision as the department itself proposes, the court is to fix the fee, not the department. Therefore the only function the department could exercise under this provision with the language included as the department asks is that they can control the attorney to be employed.

Mr. MERITT. I deny that statement absolutely. Mr. Chairman, in order that the committee may have some exact information about

these laws and their applicability at this time, I will not take the time to read them, but I will place them in the record.

The CHAIRMAN. You might just give us a general idea by reading a small part of the section which refers to it.

Mr. MERITT. Section 2103 of the Revised Statutes reads as follows [reading]:

SEC. 2103. No agreement shall be made by any person with any tribe of Indians or individual Indians not citizens of the United States, for the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing and a duplicate of it delivered to each party.

Second. It shall be executed before a judge of a court of record and bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupation; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the course from which it is to be collected, the disposition to be made of it when collected, the amount or rate per cent of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

Sixth. The judge before whom such contract or agreement is executed shall certify officially the time when and place where such contract or agreement was executed and that it was in his presence and who are the interested parties thereto, as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement and whether made in person or by agent or attorney of either party or parties.

All contracts or agreements made in violation of this section shall be null and void and all money or other thing of value paid to any person by any Indian or tribe, or anyone else, for or on his or their behalf, on account of such services, in excess of the amount approved by the commissioner and Secretary for such services, may be recovered by suit in the name of the United States in any court of the United States regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid.

SEC. 2104. No money shall be paid to any agent or attorney by an officer of the United States under any such contract or agreement, other than the fees due him for services rendered thereunder; but the moneys due the tribe, Indian, or Indians, as the case may be, shall be paid by the United States, through its own officers or agents, to the party or parties entitled thereto; and no money or thing shall be paid to any person for services under such contract or agreement until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement, showing each particular act of service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, and, if not, it shall be paid in proportion to the services rendered under the contract.

SEC. 2105. The person so receiving such money contrary to the provisions of the two preceding sections, and his aiders and abettors, shall, in addition to the forfeiture of such sum, be punishable by imprisonment for not less than six months and by a fine of not less than \$1,000 * * *.

I think that is enough to read.

Now, Mr. Chairman, the statement that Mr. Ballinger made that Congress would control the amount of money that would be paid to the attorneys under that provision is also misleading. Congress would have absolutely nothing whatever to do with the fee that the

attorney under that wording would get. If this jurisdictional bill goes through, as Mr. Ballinger desires it to go through, and worded as Mr. Ballinger wants it worded, the Government of the United States might have to pay the Chippewa Indians anywhere from five to ten million dollars, and 10 per cent of the \$10,000,000 judgment would be \$1,000,000.

We want to avoid just such scandals in the future as we have attempted to avoid in the past, and these scandals have cropped out in connection with these attorney contracts every time Congress has failed to provide for legislation according to the existing law and every time they have placed in the legislation language along the lines that Mr. Ballinger is now suggesting.

Mr. KELLY. Do you contend that 10 per cent is an unfair proposition to pay in this kind of litigation?

Mr. MERITT. I would say that any attorney who receives a fee of \$750,000, as they did receive under legislation by Congress a few years ago containing language similar to this, would receive excessive fees. Now, in order that the committee may appreciate what this language really means, I wish they might get out the congressional report, the report filed, I think, by the former chairman of this committee, Hon. Charles Burke, and also read his speeches on the floor of the House of Representatives showing what scandals have developed in the past because of the legislation along the lines that are proposed in this bill.

Mr. KELLY. As these scandals originated, was there a strict provision in the law that the Court of Claims or any other court should fix a certain percentage?

Mr. MERITT. Yes, sir.

Mr. KELLY. Ten per cent?

Mr. MERITT. Yes, sir. As I have stated before, this is a very important matter. There are certain attorneys who have gone out on various Indian reservations and used these mixed-blood Indians as tools and have gotten contracts that if they can get through Congress under the language contained in this bill will result in the attorneys getting fees amounting to millions of dollars.

Mr. KELLY. Would you consent to making the limitation 5 per cent instead of 10 per cent?

Mr. MERITT. I think the legislation should follow the usual language in these jurisdictional bills and be governed by the laws now on the statute books.

Mr. KELLY. My point is, that I would be very strong for the legislation that is on the books if there were not a better way of guarding the interests of the Indians. If Mr. Synder is a regularly appointed guardian of a child and is in certain litigation in which he names the attorney for the ward he would have a tremendously unfair advantage on this proposition. Now, we are in the same position. They claim that an injustice can be done and for that reason they insist upon naming the attorney.

Mr. MERITT. We do not intend to name the attorney. We do not propose to interfere with the Chippewa Indians naming the attorney. But when we approve a signed contract it will be so guarded that there will be no scandals in connection with it.

Mr. KELLY. That is my only point to see that they name their attorney.

Mr. MERITT. As I stated both yesterday and to-day, they will have the opportunity to name their attorney but the contract should be approved by the Commissioner of Indian Affairs and Secretary of the Interior so that there will be no more scandals. Our experience in the past with these contracts has been such that we must be very careful in this matter.

Mr. KELLY. I appreciate that.

Mr. MERITT. Do not take my word for it. Take the word of the former chairman of this committee, Hon. Charles H. Burke. I believe that no man ever in Congress would cast any reflection upon Mr. Burke's ability in regard to Indian matters or his honesty of purpose or sterling character. His speeches on the floor of the House of Representatives show the conditions that have obtained in the past and it would be very interesting to the members of this committee to read the congressional reports, and the reports of the members of this committee who have met these propositions in the past.

The CHAIRMAN. Is there anything further you desire to say?

Mr. MERITT. I desire to say this, Mr. Chairman. If this provision that Mr. Ballinger suggests is carried in this bill it will be the duty of the department to submit an adverse report on this legislation and we will feel it to be our duty to the Government and to the Indians of this country to oppose this legislation with all the power that we possess, not only before this committee and on the floor of the House, but before the Senate committee and on the floor of the Senate; and, the commissioner has said that before he will permit these outrageous outstanding contracts to be legalized he will take the matter to the President of the United State, if necessary.

The CHAIRMAN. Now, we will hear Mr. Ballinger.

Mr. BALLINGER. Of course, it is interesting to the Chippewa Indians to learn that the Indian Bureau is the boss and that the Congress must do its bidding.

Mr. MERITT. Not at all. I meant no such reflection in my statement.

Mr. BALLINGER. Mr. Chairman, observe the language on page 4, section 13,

That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits.

That gives the Court of Claims a free hand to fix the fee not exceeding 10 per cent. That takes away from section 2103 every essence of power that Congress intended by that section 2103 to confer upon the department, so that in the approval of the contract the department could not put a limitation on the payment. The court would fix the fee; it is free and untrammelled.

Therefore, there is and can be no merit in the contention of the department that by this language which they ask to have included in here they are protecting the Indian. Mr. Meritt is wrong in the statement to this committee that frauds and large fees have been allowed under language similar to that which the general council asks to have inserted.

In the jurisdictional bills under which these fees against which he complains were allowed, either no limitation was placed upon the allowance of fees or the act fixed a limitation of 25 or 30 and even as

high as 35 per cent. Now, Mr. Chairman, in the prosecution of the proposed suits, all of the expenses incident to the litigation must fall upon the attorney who takes his chances on winning on a contingent basis. The expense of this litigation in my judgment will run as high as \$75,000. That the attorney must lay out himself in the hope that he is going to win and no man who had not looked into these cases and knew what he was doing would make such an outlay of money on a contingency. Mr. Meritt talked about a man who had gone over these Indian reservations and acquired large contracts and spoke about the possible fraud and scandal that might result, and I pause to ask him if that same man is not the only man who has been able to obtain a contract from the Indian Bureau in the last two years?

Mr. MERITT. No, sir; the man that I have in mind has not obtained any contract from the Indian Bureau.

Mr. BALLINGER. Will you name that man?

Mr. MERITT. I do not care to mention names, Mr. Chairman.

The CHAIRMAN. You name him.

Mr. BALLINGER. My information is he is Mr. Evans; am I correct?

Mr. MERITT. Mr. Evans has not obtained any approved contract from the Indian Bureau.

Mr. BALLINGER. Were not the contracts taken in his name that you referred to?

Mr. MERITT. My statement is that Mr. Evans has not obtained any approved contracts from the bureau or the Interior Department regarding attorney claims.

Mr. BALLINGER. Did he not obtain an approved contract for the Red Lake Indians?

Mr. MERITT. No, sir.

Mr. BALLINGER. My information is, Mr. Chairman, that all of this indirection and innuendo that you have heard from the Indian office was leveled at Mr. Evans and that Mr. Henderson has been the man who has taken the contracts as representing Mr. Evans throughout.

The CHAIRMAN. Mr. Henderson is here.

Mr. BALLINGER. If I have done Mr. Henderson an injustice I will be glad to be corrected.

Mr. HENDERSON. Mr. Henderson will be glad to answer any question that the members of the committee desire to ask him.

Mr. KELLY. I will ask the question. Are you directly related in contracts with Victor Evans? Are you connected or acting as a representative of Mr. Evans in any contracts which have been approved by the Indian Bureau?

Mr. HENDERSON. Yes, Mr. Kelly. I am Mr. Evans's counsel in many matters, including contracts that have been made between Indian tribes and Mr. Evans.

Mr. KELLY. With the Red Lake Indians?

Mr. HENDERSON. No; they have no interest whatever. Mr. Evans has no interest whatever in the Red Lake contract nor any Chippewa contract that I know anything of.

Mr. KELLY. You have never had any trouble in getting the approval of the Indian Bureau on your contracts as counsel for Mr. Evans?

Mr. HENDERSON. I have never had a contract approved by the Indian Bureau until recently when a contract between the Red Lake Indians and myself was approved by the bureau.

The CHAIRMAN. That answers both questions.

Mr. KELLY. Then Mr. Ballinger's statement is wrong that the Indian Bureau has not approved any contract or interest to Mr. Evans.

Mr. HENDERSON. Not that I know of. I do not think Mr. Evans has ever had a contract or ever expected the Indian Bureau to approve one.

Mr. MERITT. I might add that the Red Lake Indians requested Mr. Henderson to represent them in this matter because of the experience that he had in previous Chippewa litigation. He is thoroughly familiar with Chippewa matters, and the representative of the Red Lake Indians requested the Indian office to approve a contract with Mr. Henderson, and I think the solicitation came from the Red Lake Indians rather than the solicitation of employment coming from Mr. Henderson.

The CHAIRMAN. Gentlemen, how much more time is it going to take on this proposition?

Mr. BALLINGER. I think in clearing up this one matter that we will pass pretty rapidly over the rest of the bill.

The CHAIRMAN. I suggest then that it go over to Monday morning.

Mr. RHODES. Mr. Henderson, did you understand the attorney to whom Mr. Meritt refers as having received a \$750,000 fee is Mr. Victor J. Evans.

Mr. HENDERSON. No; Mr. Evans had never received any money from any Indian contracts of any sort.

Mr. MERITT. I can answer that directly. Mr. Victor J. Evans was not in mind when I made the statement in regard to the \$750,000 fee or the \$250,000 fee.

The CHAIRMAN. We will close the hearing for the present right where it is until Monday morning at 10.30 o'clock.

(Thereupon, at 12.45 o'clock p. m., the committee adjourned to meet again at 10.30 o'clock Monday, March 22, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 22, 1920.

The committee met at 11 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. The committee will resume its hearings on the Chippewa investigation. At the close of the last hearing we were going through the jurisdictional bill and had arrived at page 4, lines 8 and 9.

Present: Mr. E. B. Meritt, Mr. Webster Ballinger, and Mr. Daniel W. Henderson.

Mr. BALLINGER. Mr. Chairman, just one word and I will conclude my statement with reference to that amendment—and the same applies to other amendments later on in the bill.

Reference has been made by Mr. Meritt to two cases in which it has been claimed that exorbitant fees have been allowed by the Court of Claims. I take it that Mr. Meritt referred, though he did not state the case, to the fee allowed in the Choctaw-Chickasaw citizenship court of \$750,000. That is one of the cases, is it not, Mr. Meritt?

Mr. MERITT. Yes; but I did not state that the Court of Claims made that award in that case.

Mr. BALLINGER. That award was made by a special tribunal.

The provisions of the jurisdictional act are found in volume 32, United States Statutes at Large, pages 995 and 996. In the jurisdictional act there was no limitation placed upon the court at all as to the amount of the fee to be allowed, as is the case in the draft of the bill before the committee.

The other case referred to was the case of the confederated bands of Ute Indians. Am I correct on that, Mr. Meritt?

Mr. MERITT. That is one of the cases I had in mind.

Mr. BALLINGER. The jurisdictional act in that case is found in 35 Statutes at Large, pages 788 and 789; and in that jurisdictional act there was no limitation whatever placed upon the fee. Further, in both of these acts, as I now recall, the courts were authorized to take into consideration the contracts. So the provision of the pending bill differs very materially from the two jurisdictional acts in which these fees were allowed.

Now, Mr. Chairman, the next amendment——

Mr. MERITT (interposing). Are you leaving the attorney question there?

Mr. BALLINGER. Yes.

Mr. MERITT. Mr. Chairman, it should be pointed out in connection with Mr. Ballinger's statement that these jurisdictional acts that he has referred to did not require the approval of those attorney contracts, in accordance with existing law, sections 2103, 2104, 2105, and 2106 of the Revised Statutes; and my point was this, that because of that fact the Indian Bureau was not in a position to protect the interests of the Indians, and these large attorney fees were the result.

Again, Mr. Chairman, Mr. Ballinger referred to sections 2103, 2104, 2105, and 2106, of the Revised Statutes the other day as being old legislation on the Statute books, and implied that they were not applicable to present conditions. I want to emphasize the fact that those laws are just as applicable to present conditions as they were when they were enacted, and are probably more needed now than they were when they were enacted, because there are more outstanding illegal attorney contracts.

Besides, gentlemen of the committee, Congress has recently placed itself upon record in regard to these attorney contracts after a very careful investigation, and the legislation placed on the statute books is found in the act of June 30, 1913 (38 Stat., p. 97), and reads as follows:

No contract made with any Indian, where such contract relates to the tribal funds or property in the hands of the United States, shall be valid, nor shall any payment for services rendered in relation thereto be made unless the consent of the United States has previously been given.

That, gentlemen of the committee, is a confirmation of the principle contained in the old statutes, sections 2103, 2104, 2105, and 2106 of the Revised Statutes, and that legislation was not enacted without very careful consideration.

I have recently called attention of the committee to the scandals in connection with attorney contracts, and in order that the committee may have a reference to some of the recent reports by the committees of Congress—by the Indian Committees of Congress, if you please—I

would invite the attention of the committee to this Report No. 2273 Sixty-first Congress, third session, consisting of two volumes, and it would be very interesting to the members of this committee to glance over these reports and see what has been in the past in regard to attorney contracts that were not under the control of the Indian Bureau. In order that they may appear in the record—at least a part of the report of this committee of Congress—I am going to ask the privilege of reading about a page and a half of this report. The report is signed by the former chairman of this committee, Hon. Charles H. Burke, Hon. Phillip Campbell, who is now a member of this committee, Hon. C. B. Miller, a former Member of Congress from Minnesota, and Hon. E. W. Saunders, recently resigned from this Congress, from the State of Virginia. This report reads in part as follows:

INDIAN CLAIMS—CONTINGENT FEES.

The committee made inquiry for the purpose of ascertaining to what extent appropriations have been made by Congress in recent years for the payment of Indian claims, together with the amount of attorney's fees paid. (See testimony, pp. 605-607.) The fees referred to in the testimony amount to nearly \$4,000,000 and some of them were exorbitant, unconscionable, and in contravention of public policy, notwithstanding the fact that they had the direct or indirect approval of Congress.

Many Indian claims, antiquated and without meritorious basis, have been trumped up against the Government by industrious attorneys, claim agents, and professional lobbyists, until there is now pending, in one form or another, in the departments and before Congress, claims of this character amounting to many millions of dollars.

In the present Congress scores of bills have been introduced on the subject of these antiquated claims, for no other purpose than to provide a dragnet for obtaining information from the departments with the object of bolstering up these questionable claims, and if an adverse report on one of these bills is authorized by the Committee on Indian Affairs, forces are immediately put in motion in behalf of the same purpose and another bill of the same import is likely to be introduced in the name of some accommodating Member of Congress who gives the matter slight consideration, depending on the Committee on Indian Affairs to sift the facts and dispose of the bill. The practice of lobbyists has become so bold that it has happened since this report has been in process of formulation for submission to this House, an adversely reported bill has been succeeded on the committee's calendar by another of similar import without even the knowledge of the Representative in whose name it was introduced. In case of adjournment of Congress without any action by the committee, other bills make their appearance in the succeeding Congress, and so the procedure continues indefinitely in the hope that ultimately a committee and a Congress may be found that will provide the appropriation with the contingent fee attachment.

Of course, the purpose of those actively engaged in exploiting such claims is to obtain the fee contracted for upon a contingent basis. The effect of such compensation for adventurers who, quoting the language of the Supreme Court of the United States, "make market of themselves in this way," should receive the careful consideration of Congress. The committee is of the opinion that the court could not have expressed itself more pertinently to many contracts which have been the subject of investigation by this committee within the past eight months than it did in the case of *Marshall v. Baltimore & Ohio Railroad Co.* (57 U. S., 314, 335), when it said:

"Bribes, in the shape of high contingent compensation, must necessarily lead to the use of improper means and the exercise of undue influence. Their necessary consequence is the demoralization of the agent who covenants for them; he is soon brought to believe that any means which will produce so beneficial a result to himself are 'proper means,' and that a share of these profits may have the same effect of quickening the perceptions and warming the zeal of influential or 'careless' Members in favor of this bill."

Again, in the case of *Trist v. Child* (21 U. S., 441, 451) the court expressed itself as follows:

"The agreement in the present case was for the sale of the influence and exertions of the lobby agent to bring about the passage of a law for the payment of a private claim, without reference to its merits, by means which, if not corrupt, were illegitimate, and, considered in connection with the pecuniary interest of the agent at stake, contrary to the plainest principles of public policy. No one has a right, in such circumstances,

put himself in a position of temptation to do what is regarded as so pernicious in its character. The law forbids the inchoate step, and puts the seal of its reprobation upon the undertaking."

In the same case the court continued by making the following observations:

"If any of the great corporations of the country were to hire adventurers who make market of themselves in this way to procure the passage of a general law with a view to the promotion of their private interests, the moral sense of every right-minded man would instinctively denounce the employer and employed as steeped in corruption, and the employment as infamous. * * *

"The prohibition of the law rests upon a solid foundation. A private bill is apt to attract little attention. It involves no great public interest, and usually fails to excite much discussion. Not unfrequently the facts are whispered to those whose duty it is to investigate, vouched for by them, and the passage of the measure is thus secured. If the agent is truthful, and conceals nothing, all is well. If he uses nervous means with success, the springhead and the steam of legislation are polluted. To legalize the traffic of such service would open a door at which fraud and falsehood would not fail to enter and make themselves felt at every accessible point. It would invite their presence and offer them a premium. If the tempted agent be corrupt himself, and disposed to corrupt others, the transition requires but a single step. He has the means in his hands, with every facility and a strong incentive to use them. The widespread suspicion which prevails, and charges openly made and hardly denied, lead to the conclusion that such events are not of rare occurrence. Where the avarice of the agent is inflamed by the hope of a reward contingent upon success, and to be graduated by a percentage upon the amount appropriated, the danger of ampering in its worst form is greatly increased."

The case of Adams, with contracts for claims representing more than \$20,000,000 in which he has a contingent interest ranging from 10 to 35 per cent, presents a good example of the necessity and advisability of enacting legislation limiting the fees that shall be paid in any case, and the committee recommends that the subject have careful consideration by Congress and that legislation be enacted with this purpose in view.

Gentlemen of the committee, that is the language of the report.

The CHAIRMAN. Now what happened in that Adams case?

Mr. MERITT. Those contracts are still outstanding. They are illegal, and Mr. Adams and other attorneys who have these illegal contracts want legislation passed which will take the matter out from under the jurisdiction of the department and leave it so that the Indian Bureau will have no control over these contracts. I have been rather insistent in bringing these matters to the attention of the committee, because I know from past experience that if legislation of this character is enacted it will result in great scandals, as has occurred in the past; and as the Indian Bureau does not want to be a party to those scandals, we want to bring this matter fully to the attention of Congress. That is the reason why I have called the attention of the committee to the report of a former investigating committee consisting of members of this Indian Committee, headed by Hon. Charles H. Burke, who is well informed on Indian matters.

The CHAIRMAN. What is the date of that statement you have just read?

Mr. MERITT. This statement?

The CHAIRMAN. The report you have just read.

Mr. MERITT. The statement is a comparatively recent expression of Members of Congress on the question of attorney contracts.

The CHAIRMAN. It must have been about 10 years ago.

Mr. BALLINGER. 1910 was when the investigation was made.

Mr. MERITT. It is dated February 20, 1911.

The CHAIRMAN. Evidently that report had a very salutary effect upon these claims getting to an adjudication, because in the five years that I have been here, while the propaganda as outlined in

that report has been about as it must have been then, yet it has been without much success, so far as I have been able to find.

Mr. RHODES. Let me ask this question: Have any bills been passed through Congress since that report was made giving the Court of Claims jurisdiction in any of those cases and fixing attorneys' fees?

Mr. MERITT. Not that I recall. We have reported adversely on every one of the bills and have fought those bills as hard as we possibly could.

Mr. RHODES. Is that your understanding, too, Mr. Chairman?

The CHAIRMAN. That is my understanding.

Mr. MERITT. But, Mr. Chairman, these attorneys have become exceedingly active recently, and my reference to propaganda in my recent statement to this committee had a significant meaning, because—

Mr. RHODES (interposing). Now, just a moment—that means that you are against any legislation which seeks to confer jurisdiction on the Court of Claims to hear any of these Indian matters and fixing the fees?

Mr. MERITT. We are against any legislation which permits attorneys to have tribal contracts that do not conform with the existing law contained in sections 2103, 2104, 2105, and 2106 of the Revised Statutes.

Mr. RHODES. In other words, is it your opinion that there is all the law on the statute books to-day pertaining to the making of such contracts and their approval that is necessary?

Mr. MERITT. Yes, sir; but they are attempting to get these jurisdictional bills through so worded that the law now on the statute books will not apply.

Mr. RHODES. What I mean is, then it is your contention that there is no necessity for this legislation in that regard?

Mr. MERITT. No, sir; there is necessity for legislation submitting these claims to the Court of Claims for adjudication, but that legislation should be worded so that the attorney contracts must conform to existing law.

Mr. RHODES. That is what I was getting at. You have no objection in certain cases to the Court of Claims acquiring jurisdiction?

Mr. MERITT. Not at all.

Mr. RHODES. But you don't want the law changed as to the making and approval of attorney contracts?

Mr. MERITT. No, sir.

The CHAIRMAN. And that, of course, includes the selection of the attorney. Of course, that is part of the proposition. We might just as well have that in the record. There are two prime, fundamental reasons why they insist upon this language. The first is that the Indians shall have an attorney who is at least satisfactory to them and partially so to the bureau, and that the fee must not be left without a limit. We have several bills here now where Indians are desirous of going to the Court of Claims to which the bureau has not objected; in fact, some of them have said they should go there; but this committee has been slow to report out those bills on account of the fact that we know how difficult it is to get any measure of that sort through the House, and it is going to be very difficult now, and one of the reasons why there are so many of these pressed now is that it has been about three years since we have considered any

of them. They were tabooed entirely by the committee. Now it is not surprising to me that there is an effort now to press these matters, on account of the intermission there of about three years that there was no consideration given to them at all.

Mr. MERITT. We have no objection at all to any Indian tribe in the United States having a *prima facie* claim, having a jurisdictional bill properly worded which will permit them to go to the Court of Claims. In fact, Mr. Chairman, I want it plainly understood that my position is that every Indian tribe in the United States that thinks it has a claim against the Government should have that opportunity, the same as any other person who thinks he has a claim against the Government; and when I was law clerk of the Indian Bureau several years ago I drafted a general jurisdictional bill which would permit all Indian tribes to go to the Court of Claims, but that general jurisdictional bill was so guarded that none of these scandals would have resulted.

The CHAIRMAN. Now, Mr. Meritt, can you give me any idea of how many of these claim bills there are before the Court of Claims now that refer to Indians?

Mr. MERITT. There are very few pending before the Court of Claims at this time, Mr. Chairman, but there are a great many bills pending before the committees of Congress, and some of them are not properly guarded, and we have pointed out when we have had those bills referred to us for report, these provisions that would be unfortunate if they passed in their present form.

Mr. RHODES. There are no such bills on the calendar, either in the House or Senate now, are there?

Mr. MERITT. I think there are some bills on the calendar.

The CHAIRMAN. There are some on the calendar. We just reported out one the other day, this Cowlitz bill. That was a claim bill. And the Crow bill is a claim bill.

Mr. RHODES. I mean containing those objectionable features.

Mr. BALLINGER. And the Five Tribes.

The CHAIRMAN. Now, there is one bill before the Court of Claims where the limit of attorneys' fees is not fixed, isn't there?

Mr. MERITT. I do not recall it.

Mr. W. M. WOOSTER. The Indians living west of the summit of the Cascades on the Pacific coast are so widely scattered and so far apart that it would be impossible for them to come and negotiate contracts as in the case of others.

Mr. MERRITT. That bill has not passed Congress.

The CHAIRMAN. Well, is it on the calendar?

Mr. SINCLAIR. It is on the calendar; yes, sir.

The CHAIRMAN. Did this committee report it out?

Mr. SINCLAIR. I think so.

The CHAIRMAN. Now, just let me see if I understand this bill here. My understanding of this measure that we are discussing here now, H. R. 12972, is that it is drawn peculiarly to cover the interests of the Chippewas of Minnesota?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And while it is the desire of the bureau that it shall contain no language that is any way different from the regular legal form of making contracts with attorneys, that there are other matters in here that must be enacted in order to cover certain conditions that

prevail in the Chippewa Nation, that do not apply to the laws that are now on the books. In other words, this legislation here must be enacted in order to take care of the peculiar situations that are up there, which are not covered by any law that is in existence to-day? Is that the complete understanding of it?

Mr. MERITT. No, sir.

The CHAIRMAN. Then if you will try to tell me why, with all the laws there are on the books for the purpose of Indians getting an opportunity to go to the Court of Claims, it is necessary to enact this particular legislation here now—can you tell me that?

Mr. MERITT. We have no objection to the jurisdictional bill passing Congress as recommended by the Indian Bureau, but Mr. Ballinger is attempting to get an amendment on this bill that will take the approval of the contract out from under the jurisdiction of the Indian Bureau, and therefore not have the existing law applicable to those contracts; you will observe on page 4, lines 8 and 9, we drafted the law so as to read:

Attorneys employed therein by said tribe or bands of Indians under contract or contracts made and approved as provided by existing law.

The CHAIRMAN. Now, let me ask you right there, if the contract was made as provided by existing law, would there be any need for all this other legislation that is written in this H. R. 12972?

Mr. MERITT. Yes, sir; there would still be need for it, because the Court of Claims would not have jurisdiction without legislation.

The CHAIRMAN. Now, that is what I tried to get before you in the statement I made a few moments ago.

Mr. RHODES. But Mr. Meritt does not mean that it is necessary to have the law amended as suggested by Mr. Ballinger. You want the law just as it appeared in this draft here, because it recognizes existing law in applying to attorneys' contracts and their approval?

Mr. MERITT. Exactly.

The CHAIRMAN. Then if this bill—if we should report this measure here as drawn with that section with regard to attorneys' contracts, as the bureau desires it here, what else is there in the bill that is objectionable?

Mr. MERITT. There are a number of amendments that Mr. Ballinger has submitted that are objectionable. We have no objection to the bill as submitted by the Indian Bureau.

Mr. RHODES. You mean the bill H. R. 12972 is the way you want it, isn't it?

Mr. MERITT. Yes, sir.

Mr. RHODES. What Mr. Meritt is objecting to is the Ballinger amendments.

The CHAIRMAN. It is also necessary to have it in this form in order to close up the affairs of the Chippewas along the line of the administration bill which we have already discussed.

Mr. MERITT. H. R. 12972 is a jurisdictional bill, and will give the Court of Claims authority to determine the claims of the Chippewa Indians against the Government, and will also determine the claims of certain bands of the Chippewa Indians—for example, the Red Lakes and the Indians outside of the Red Lake Reservation.

Mr. RHODES. Are you in favor of it?

Mr. MERITT. We are in favor of it.

The CHAIRMAN. Now, Mr. Ballinger desires to amend it?

Mr. MERITT. We are opposed to the Ballinger amendments.

The CHAIRMAN. Now let us see if we can not, with that discussion, go ahead and see what Mr. Ballinger's amendments are. What do you want put right in there in place of that, Mr. Ballinger?

Mr. BALLINGER. This is page 4, lines 8 and 9, and I ask to have stricken out the words "under contract or contracts made and approved as provided by existing law," and I ask to have inserted in lieu of those words stricken out the words "by their general council," so that it will read: "to be paid the attorney or attorneys employed therein by said tribe or bands of Indians by their general council."

The CHAIRMAN. Now, Mr. Meritt objects to that on the same grounds that he has objected to that general-council proposition all the way through.

Mr. BALLINGER. Mr. Chairman, I just want to suggest this to you, that in the amendment I have asked be inserted there is an absolute limitation and check on the amount of the fee, for under the bill as agreed to by the department the court can not fix a fee in excess of 10 per cent, and then you have the further check on the judgment when it comes back for an appropriation to pay it. If you gentlemen think the fee allowed is excessive, you have a check on it when you come to make the appropriation to pay the judgment.

The CHAIRMAN. Now, we understand that, and we understand that the same objection exists and the same point remains that it is simply a question here of whether the council shall have the last word or the bureau on the question of who the attorney shall be.

Mr. BALLINGER. Merely a suggestion.

Mr. RHODES. Just a moment there—do I understand that the chief difference, or substantial difference, between the bureau and Mr. Ballinger is this: That the question who shall have the selection of the attorney?

Mr. BALLINGER. That is it.

Mr. MERITT. Now, that is not the question. Mr. Ballinger would like to have it appear that that is the question, but that is not the principle involved. The principle involved is far deeper than that proposition. We will have no objection to the Chippewa Indians selecting their own attorney, but we want the contract that they make in such form that it complies with existing law, and that it shall contain provisions that are reasonable and fair to all concerned. It is a well-known fact that shrewd attorneys can go out on Indian reservations and get contracts that will result—

The CHAIRMAN (interposing). We have been all through that several times, and the committee understands that phase of it.

Mr. RHODES. That would rather go to the reason why the department from your standpoint ought to have the jurisdiction.

Mr. MERITT. We want the law so guarded that the complaints and scandals set out in this investigation will be impossible.

Mr. BALLINGER. Now, Mr. Chairman, the next amendment that the general council proposes, on page 4, line 19, renumber "section 5" as "section 14," so it will be section 14 if the bills are put together. I take it there is no objection to that.

The CHAIRMAN. No.

Mr. BALLINGER. Now, in line 22, page 4, strike out the word "or and insert the word "and."

The CHAIRMAN. There is no objection to that.

Mr. BALLINGER. Then in line 23, after the word "Chippewa insert "which shall include all the Chippewa Indians residing on and belonging to said reservation."

All of the Indians residing on the Red Lake Reservation have participated in the distribution of the funds, thus far made, and therefore the jurisdictional act ought not to limit it to the Red Lake Band, but ought to include all of those Indians as party defendants.

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. There is no objection to that. What is the next?

Mr. BALLINGER. Page 5, line 5, after the word "bands," insert the following:

The court shall also determine the ownership of any funds that may hereafter be derived from the sale and disposition of any of the property on the Red Lake Reservation, and all funds now in hand and that may hereafter accrue from the disposition of any such property on the Red Lake Reservation shall be held subject to the final determination of the case, and shall then be disbursed in strict conformity with the decree of said court.

The provision as it stands, commencing with line 19, on page 4 and running to line 5, page 5, deals only with the funds that have been received and disbursed, and this amendment will enable the court to determine the entire ownership of all the property on the reservation. I take it there is no objection to that.

Mr. MERITT. Mr. Henderson probably wants to make a statement there.

Mr. HENDERSON. Mr. Chairman, there is every objection to it from the standpoint of the Red Lake Indians, and when it comes to the time to present this subject generally we shall try to make that clear.

The CHAIRMAN. Now, you have said that several times—when it comes to the time when you will present this matter generally. When do you expect that time to come and where?

Mr. HENDERSON. I assume from the announcement made by the chairman at the beginning, that we would go through this bill taking it up at the respective points where amendments were being suggested by Mr. Ballinger, the general council, and that after that was done the Red Lake Indians would have an opportunity to offer as a substitute for this whole scheme of legislation their request in regard to the matter, which will be radically different from what is presented in the present bill.

The CHAIRMAN. Will that be in the form of a brief or an oral statement?

Mr. HENDERSON. That will be in the form of a draft of a proposed bill.

The CHAIRMAN. Will you have that ready to present at the close of this hearing?

Mr. HENDERSON. No; hardly at the close of this hearing. Mr. Chairman, but within 24 hours after the hearing is closed, I should say.

The CHAIRMAN. All right. I just wanted to know what you meant by that. Now you can go ahead. Is that all you have to say to-day on this amendment?

Mr. HENDERSON. That is all I care to say now.

The CHAIRMAN. Then there is no objection on the part of the bureau?

Mr. MERITT. Yes, sir: we object to that amendment, but we thought inasmuch as it affected the Red Lake Indians, Mr. Henderson should have the opportunity to state their objections.

The CHAIRMAN. Will his objection be your objection?

Mr. HENDERSON. May I say one word there that will probably be a key to the situation? The Red Lake Indians are unalterably opposed to the general council, as it is known here now before this committee, having control of the legislation or any legislation that may be granted to the Red Lake Indians, or the Chippewas, at this session of Congress.

The CHAIRMAN. Don't you mean that they are opposed to having the present council administer any legislation that may be enacted?

Mr. HENDERSON. They are opposed to going into court under conditions where they would not have an equal standing with any other bands or any bands of Chippewas in the State. They will ask this committee to give a jurisdictional bill—to allow a jurisdictional bill to be reported out favorably that will put them in a position where they can be the fighters, or the claimants in any claim that they may have, and they have claims not only against the United States but against the other bands of Chippewa Indians in the State. They do not want to have to appear in the Court of Claims as a defendant or defendants, necessarily, but they want to go there themselves if they see fit to do so, as claimants in the case.

Mr. MERITT. And the Indian Bureau wants to place the Red Lake Indians in the same position as any other band of Chippewa Indians, and we are favorable to the proposition suggested by Mr. Henderson.

Mr. BALLINGER. Mr. Chairman, if this matter is going to go to the Court of Claims, the court by its decree ought to clean up the entire question. It ought not to go there by piecemeal, and the provision as agreed to by the department merely put up a part of it to the court to decide, and withholds all the property that remains undisposed of, together with the proceeds or timber that has been sold under this present contract that is in the Treasury of the United States. Now that all ought to go to the court, and the court ought to decide the ownership of all of it; if not, it is useless to send a part of it to the court to decide.

Mr. HENDERSON. May I say in response to Mr. Ballinger's suggestion that it will be the desire of the Red Lake Indians in any bill that is passed to have entire reciprocity. They will ask that any set-offs that there may be against claims that they are offering, either on the part of the United States or the other bands of Chippewa Indians shall be tried in the same suit. That probably would be done in any event under the rules of the court, but they are very willing to have that provision expressly set forth in the act that may be passed.

Mr. BALLINGER. Mr. Chairman, the next amendment is in line 13, page 5, strike out the word "or" and insert the word "and."

Mr. MERITT. We have no objection to that amendment.

Mr. BALLINGER. In line 20, page 5, strike out the words "for the purpose of making" and insert in lieu thereof, "and shall furnish such." The Indian Office agreed to that previously.

Mr. MERITT. We have no objection to that amendment.

Mr. BALLINGER. In line 21, after the word, "thereof," insert the words "free of cost."

Mr. MERITT. We have no objection to that, with the previous understanding that the request shall be reasonable.

The CHAIRMAN. Who is going to pass upon the question of reasonableness?

Mr. BALLINGER. The court would if there was a controversy.

The CHAIRMAN. That is a very elastic word—"reasonableness."

Mr. MERITT. Mr. Chairman, before we leave that page I want to correct the statement that Mr. Ballinger made a few moments ago, that if the court made an unreasonable award, Congress would still have control of the matter; that it would be necessary for them to come back and get an appropriation from Congress. Now I wish to invite your attention to the language contained on page 4, lines 12 to 18, inclusive, which reads as follows:

The fees and expenses decreed by the court to the attorney or attorneys of record shall be paid out of any sum or sums recovered in such suit or suits; and the proceeds of all amounts recovered, after the payment of fees, charges, and expenses, shall be deposited in the Treasury of the United States in the principal fund of the Chippewa Indians of Minnesota.

Mr. BALLINGER. There would have to be appropriation made first of the money.

Mr. MERITT. Under that language, Mr. Chairman, it would not be necessary to make an appropriation by Congress; the money would be transferred from the public funds of the Treasury of the United States to the account of the Chippewa Indians.

Mr. ELSTON. Well, but that account of the Chippewa Indians would have to be drawn upon by a legislative appropriation. It would be under control, I suppose, to that extent.

The CHAIRMAN. Well, there is a controversy here.

Mr. RHODES. Unless there is authority under existing law.

The CHAIRMAN. Just a moment—I want to see if Mr. Meritt is through with his statement.

Mr. MERITT. That is my statement.

Mr. BALLINGER. Mr. Chairman, every judgment of the Court of Claims, unless it is expressly written into the legislation otherwise, has to come to Congress for an appropriation, and they are usually carried in the sundry civil or the deficiency appropriation bills.

Mr. MERITT. That is true generally, but I think this language is so worded that it could be done without further legislation by Congress.

Mr. ELSTON. There is no difference between you, so that both sides are perfectly willing for that language to be so explicit that there is no controversy whatsoever that a subsequent appropriation will have to be made. So that can be passed.

The CHAIRMAN. I am very glad you brought that out, Mr. Meritt, because that shows there is no controversy there.

Mr. BALLINGER. Now, on page 6, Mr. Chairman, I want to read several amendments together—commencing on page 5, line 24, with the word "provided," the draft of the bill provides:

Provided, That the Red Lake Band, if it shall elect so to do at a general council of the band, may employ counsel, under existing law, to represent it, and the court may determine the fee or compensation to be paid such counsel, which shall not exceed \$5,000, in addition to the expenses incurred, in the event the Red Lake Band is unsuccessful in its defense; and in the event the Red Lake Band is successful in its defense, such fee, including costs and expenses, shall not exceed 10 per cent of the amount claimed by the complainant bands, payment to be made from any funds standing to the credit of the band at the time of the filing of the petition in such suit.

Now what does that do? First I want to call your attention to the preceding provision which authorizes the Attorney General of the United States to appear and defend for that band. This provision authorizes the band, if it sees fit, to supplement the Attorney General's representation before the courts. The provision there on page 6 provides that, win or lose, the attorney representing the Red Lake Band shall receive \$5,000 and his expenses, and that shall come out of the funds now standing to the credit of the Red Lake Band. If the court holds that those funds belong to all the Chippewas of Minnesota, then you would have this paradoxical situation of the plaintiff who has brought a suit for the recovery of his property prevailing in the court and recovering his property and the being compelled to pay the attorney for the defendant, and the Chippewa Indians of Minnesota do not think that is a fair proposition. The bill gives their attorney no compensation, either for expenses or for counsel fees, unless he prevails; if he prevails he gets compensation; if he fails he gets nothing. Now, in order to overcome that situation the general council suggests these amendments:

Page 6, line 8, after the word "made" insert the words "if the Indians residing on and belonging to the Red Lake Reservation are successful."

Line 10, strike out the period after the word "suit," and insert a comma and add the following:

and of said Red Lake Indians are unsuccessful said \$5,000 and expenses shall be paid out of the public treasury to be reimbursed out of any funds to which the individual members of said band may be entitled before any further payments out of the tribal property shall be made to any of the members of said band.

That authorizes them to employ special counsel to supplement the Attorney General, if they so desire, and if they are unsuccessful then they must pay their attorney out of their own funds, which is a fair proposition. If they are successful, the general counsel has no interest in the proceeds, and they can do with it as they see fit.

The CHAIRMAN. Does any one wish to say anything in objection to that?

Mr. HENDERSON. I do not know that I have it clear in my mind yet.

Mr. BALLINGER. I will read it, if the committee desires, in exactly the language as amended.

The CHAIRMAN. Well, it is very simple, as far as my mind is concerned. It is perfectly obvious what he means.

Mr. ELSTON. He does not want it paid out of the funds belonging to all the Chippewas rather than the other funds.

Mr. HENDERSON. I do not think the Red Lakes would make any such contention.

Mr. ELSTON. We understand the situation. There is no use going into it.

The CHAIRMAN. What is the next suggested amendment?

Mr. BALLINGER. Line 17, page 6, after the word "the" insert the following: "General council of the Chippewa Indians of Minnesota to represent the," so that the language will read, commencing in line 13.

Upon the final determination of such suit the Court of Claims shall also determine the fee and allowances for expenses as it shall find reasonable and just to be paid the attorney or attorneys employed by the general council of the Chippewa Indians of Minnesota to represent the complainant bands.

Mr. MERITT. Mr. Chairman, we offer the same objection to that amendment that we offered to the amendment on page 4, lines 8 and 9. The same principle is involved.

The CHAIRMAN. What is the next?

Mr. BALLINGER. Just one minute. Observe, Mr. Chairman, that as the language stands, probably a contract would have to be made with from 12 to 13 bands separately out there, and it would require their separate approval. The amendment that I offer puts that in the hands of one institution, so that you have a workable proposition.

Mr. MERITT. No; Mr. Chairman, that amendment would take out from under the jurisdiction of the Interior Department to approval of the contracts, because they propose to strike out "under contract or contracts made and approved as provided by existing law."

Mr. BALLINGER. Mr. Chairman, in lines 17 and 18, we ask that the words commencing with the word "under," in line 17, be stricken out: that is, these words, "under contract or contracts made and approved as provided by existing law." I have already gone into that matter fully.

The CHAIRMAN. There is no discussion really about that.

Mr. MERITT. We are opposed to both amendments.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On page 7, line 5, after the parenthesis following the figures "642" insert the following: "or to which the Indian title had not been lawfully extinguished by cession." Let me read that so that the committee will fully understand it. Before I get to that, this section 6 ought to be changed to section 15.

The CHAIRMAN. Is there any objection to that?

Mr. BALLINGER. Commencing on line 24, page 6, the language will read, "That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all land and timber thereon, ceded to the United States in trust, under the provision of the act of January 14, 1889, or to which the Indian title had not been lawfully extinguished by cession." Is there any objection to that, Mr. Meritt?

Mr. MERITT. Yes, sir; we object to that amendment on the ground that it would bring in all of the controverted questions regarding those various agreements and treaties. We want these claims based upon acts of Congress, and you remember that the acts of January 14, 1889, is the basic act, and inasmuch as this language would bring in a lot of controverted questions——

The CHAIRMAN. It goes back of that date?

Mr. MERITT. It goes back of that date, and we object to it.

Mr. BALLINGER. Now, Mr. Chairman, in order to get this plain, the object of the general council is to clean up all their controversies with the Government. Under the treaty of 1855 a cession of land was made to the United States. The United States admittedly surveyed to a wrong point instead of following the boundary line stated in the

treaty, which resulted in the United States acquiring somewhere between 200,000 and 600,000 acres of land more than was ceded to it. The General Land Office has so advised the Secretary of the Interior, and that matter is contained in a confidential report, as I understand, and I am speaking from secondhand information here. The records in that case, as transmitted to the Secretary, are being treated as confidential, because they would disclose, if made public, a claim against the United States. Now, it is for the purpose of reaching that very claim and bringing that in here so that it may all be cleaned up in one suit that this amendment is asked, and if you are going to send the claims of these Indians to the Court of Claims, I ask that you clean up everything.

The CHAIRMAN. Well, you have the right to ask. Have you anything further to say on that, Mr. Meritt?

Mr. MERITT. No, sir.

The CHAIRMAN. What is the next amendment?

Mr. BALLINGER. Line 5, page 7, strike out the word "subsequently"; that is to say, subsequent to 1889.

Mr. HERNANDEZ. Were there any patents subsequent?

Mr. BALLINGER. Yes. The language reads, "Which were subsequently patented to the State of Minnesota," and my suggested amendment is to strike out the word "subsequently."

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. We prefer that the word "subsequently" be retained in the bill.

The CHAIRMAN. Just give us one reason for it.

Mr. MERITT. For the reason that it would bring up a lot of controverted questions that are so old and are so hazy that it would be almost impossible for any court to determine them.

The CHAIRMAN. And that word is used so that it will be understood that you are not to go back of 1889?

Mr. MERITT. The act of January 14, 1889, is the basis of these claims.

The CHAIRMAN. The "subsequently" mentioned in there means that it is the intention of this act that no litigation or claim shall date back of 1889; is that the idea?

Mr. MERITT. That is one of the ideas involved, Mr. Chairman.

The CHAIRMAN. Well, what is the other one?

Mr. MERITT. The language would make it uncertain as to what would go to the Court of Claims for adjudication?

The CHAIRMAN. What language?

Mr. MERITT. Embodying the word "subsequently" in connection with the other language that Mr. Ballinger has suggested go in the bill.

The CHAIRMAN. Perhaps my illustration of the thing was crude, but does it not all mean the same thing?

Mr. MERITT. The same principle is involved.

Mr. BALLINGER. Mr. Chairman, the position of the department, it seems to me, is very paradoxical. Turn to section 1 of the bill and see what jurisdiction is given to the court:

That all claims of whatsoever nature which the Chippewa Indians may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said tribe from the United States under any treaty or agreement or for the misappropriation of any of the funds of said tribe.

Now, then, after giving them jurisdiction to hear and determine any claim arising out of any treaty, it is now proposed to limit them to claims that have arisen subsequent to 1889. Either one or the other portion of the bill ought to be changed so that it will be clear and specific and so that we will know exactly what we are doing.

Mr. MERITT. We have no objection to the Indians taking their claims to the Court of Claims, but we do not want language incorporated in a jurisdictional bill that will give a basis for claims that do not in fact exist and will cloud the issue. That is the reason why we think the language "or to which the Indian title had not been lawfully extinguished by cessions" should be omitted, because we make reference to the act of January 14, 1889, which was a confirmation of the agreement, and if we allow any other language to go in they will bring up the agreements rather than the legislation itself.

Mr. BALLINGER. Now, Mr. Chairman, the next amendment proposed by the general council is on page 7, lines 18, 19, 20, 21, 22, and 23, to strike out the words "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians" and insert in lieu thereof the following: "as provided in section 2 of this act."

Now, section 2 of the administrative bill makes provision for the disposition of any lands that are recovered back from the State. Now, why this further provision, which is different from the provision contained in section 2 of the administrative bill and therefore in direct conflict.

Mr. MERITT. Mr. Chairman, our objection to that is that the language we have in the bill is perfectly clear and can not be questioned. whereas if he refers back to section 2 you will note that section 2 is a very long section and deals with several subjects, and the two make it rather confusing.

Mr. BALLINGER. It is the first paragraph of section 2.

Mr. MERITT. We wanted it to be made perfectly clear.

Mr. ELSTON. Is there any question between you as to whether or not the bureau is perfectly clear, or whether the methods provided in section 2 and in the details given here by the bureau are different? What do you say as to that, Mr. Ballinger? You say it is just surplussage to repeat?

Mr. BALLINGER. This provision here changes the provision made in section 2 of the bill for the disposition of the same lands.

Mr. ELSTON. Mr. Meritt did not touch that. He justified this extensive detail there at the point mentioned because he refers to the fact that section 2 will be a little confusing.

The CHAIRMAN. That deals with many measures.

Mr. ELSTON. Many measures, and he does not go to the point you make, that this detail is different entirely from the segregated detail that might be found in section 2 referring to this matter.

Mr. MERITT. In order that I may make myself perfectly clear on this, I will state that Mr. Ballinger proposes to strike out the following: "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians." My contention is that

the language is perfectly clear, and it shows plainly what we propose to do with the money.

Mr. ELSTON. With the proceeds?

Mr. MERITT. With the proceeds.

Mr. ELSTON. In what particular way does the language he suggests differ from that?

Mr. MERITT. Mr. Ballinger suggests that the language be stricken out and the following language be inserted, "as provided in section 2 of this act." Now, in order to get my point, it will be necessary for me to read section 2.

Mr. BALLINGER. Page 12, line 15.

Mr. MERITT. Section 2, page 11, line 13: "That as compensation for losses sustained by the Chippewa Indians——

Mr. ELSTON. What is the use of reading the whole section? If Mr. Ballinger can state just what particular provisions in section 2 covering the same matter here are different, as he says, then we can discuss it.

Mr. MERITT. It relates to the whole section, which contains the several different propositions.

Mr. BALLINGER. Page 12, line 15, provides as follows:

"The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889,"—and then there is a difference there as to the words, "and undisposed of," and then it proceeds, as the department has it, "And not included in any reserve and not disposed of," and now, including this language here in both drafts, "including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be appointed by the executive committee of the general council of the Chippewa Indians of Minnesota," and then the section goes on down and provides how that land shall be sold.

Mr. ELSTON. But one is referring to money, and the other to lands.

Mr. BALLINGER. No; this refers to timber now on the very lands that are to be recovered back.

The CHAIRMAN. This over here simply provides what shall be done with the money.

Mr. ELSTON. I do not see that there is any conflict at all. It looks to me like the bureau's contention is right. I do not see any contradiction. One has to do with money and the other as to the disposition of money of somebody else, the title to which might come to the Chippewas by reason of this litigation.

The CHAIRMAN. That is only money that is recovered from all the things that are set forth in section 2.

Mr. BALLINGER. Mr. Chairman, I think I am right about it. On page 7 of your jurisdictional bill, commencing with line 13, it reads: "Any moneys recovered from said State shall be deposited in the principal fund of the Chippewa Indians of Minnesota, standing to their credit in the Treasury of the United States; and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of as provided in section 2 of this act." Now, section 2 of this act provides for the disposition of any land that is recovered from the State.

Mr. ELSTON. That does not interfere with the proceeds.

The CHAIRMAN. That is in the bill itself?

Mr. BALLINGER. Yes.

The CHAIRMAN. I am looking at the jurisdictional bill.

Mr. BALLINGER. That is in the jurisdictional bill that I just read.

The CHAIRMAN. (Reading:)

Standing to their credit in the Treasury of the United States; and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior.

Mr. BALLINGER. Yes, that is the disposition of the land.

The CHAIRMAN. That is not the way you read it. It continues. "and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians."

Mr. MERITT. My point is that Mr. Ballinger's proposed amendment will lead to confusion, because it refers to the entire section 2, and there are different subjects contained in that section; whereas our position is that this money shall be deposited to the credit of these Indians in the Treasury of the United States.

Mr. ELSTON. Is there anything in the provision you are speaking of now on page 7 which refers to land recovered in litigation?

The CHAIRMAN (reading). "And any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior."

Mr. ELSTON. All right, Mr. Ballinger; that section is all right. because there is a provision in section 2 that lands recovered shall be added to the general bulk of lands distributed under the general allotment system, and here you provide an absolutely inconsistent provision for the distribution of this very same land.

Mr. BALLINGER. That is my contention.

Mr. ELSTON. If it is true as the Chairman just read.

Mr. MERITT. We are required to dispose of this land, and we are required to deposit the money, and we will do it.

Mr. ELSTON. You are required to allot them and do other things in addition to crediting the money, I assume from the language you read. Now, let us get this thing down to the issue. Are you perfectly willing, if it be found that the suggestions you have made on page 7 as to the disposition of not only the moneys, but also the lands recovered, are different from or contradictory to any provision in section 2 referring to the same matter, that we go ahead and harmonize them with section 2?

Mr. MERITT. We are willing to harmonize them with section 2, but we are not willing to have the whole of section 2 tied up with section 15.

Mr. ELSTON. But in the whole thing we have got to segregate the matter here and make them consistent with each other. It looks to me like that will end it.

The CHAIRMAN. Who will prepare the language to correct that?

Mr. BALLINGER. May I not read a few lines here from section 2, so as to make that absolutely clear? Commencing on line 15, page 12, it reads:

The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889, including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their

true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be appointed by the Executive Committee of the General Council of the Chippewa Indians of Minnesota, and upon the completion of the allotments herein authorized all of said land remaining undivided and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder at not less than the appraised value in tracts not exceeding 640 acres, said tracts to conform to legal subdivisions—

and then it goes on and provides for the exact method of disposition. Now, this provision here changes it.

Mr. ELSTON. It is perfectly evident that if the provision you have just read and the provision we are discussing on page 7 refer to the same subject matter, it would be absolutely foolish to have contradictory provisions in the same act referring to the same subject, but now they are harmonious, absolutely so; they are exactly identical.

The CHAIRMAN. If you cut this language out, "and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior," would not that correct the whole thing?

Mr. BALLINGER. If you commence with the word, "under," in line 18, and strike out the word "under" in line 18, and strike out lines 19, 20, 21, 22, and in line 23 the letters "dians," being the last part of the word "Indians," and then substitute the language, "as provided in section 2 of this act," you will harmonize both sections as completely as I can harmonize them.

The CHAIRMAN. What is the next suggested amendment?

Mr. BALLINGER. On line 25, page 7, strike out the words, "under existing."

On page 8, strike out all of lines 1 and 2. That is the same question—

Mr. MERITT. Read the amendment, please.

Mr. BALLINGER. Well, the provision as amended—

The CHAIRMAN. Is that the end of it?

Mr. BALLINGER. No, sir.

Mr. MERITT. He proposes to strike out the words, "under existing law, subject to the sanction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior."

Mr. ELSTON. With respect to what?

Mr. MERITT. With respect to the attorney's fee.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On page 8, line 14, strike out the period and insert a comma and add the following: "and shall furnish copies of any such letters, papers, documents, and public records as said attorneys may desire for use in said case free of cost."

Mr. MERITT. We have no objection to that, Mr. Chairman. It goes in after the word "attorneys" in line 14.

Mr. BALLINGER. That is right.

The CHAIRMAN. Does that end the suggestions?

Mr. BALLINGER. Just one more, Mr. Chairman, and that is all. The general council asks that this be added at the end of the bill.

The CHAIRMAN. At the end of this bill?

Mr. BALLINGER. At the end of this bill; yes, sir. This provision as section 16, which is as follows:

This act shall become effective and binding upon the Chippewa Indians of Minnesota when ratified and accepted by a majority of their general council, the members of which shall be selected at an election held subsequent to the approval of this act

under the supervision of the Secretary of the Interior, but said supervision shall extend no further than to see that every male adult member of the said tribe over 18 years of age is freely permitted to participate in said elections and that his vote is properly recorded; and that the votes cast in the general council are properly recorded. Without such acceptance and ratification this act shall be inoperative.

The object and purpose of that is to guarantee an absolutely fair and impartial election under the supervision of the department itself, of a general council, and that general council, again under the eye of the Secretary of the Interior, is to consider this legislation and accept it or reject it.

Now, Mr. Chairman, that is important, for this reason. If this legislation is accepted by the Chippewa Indians of Minnesota in the way I have outlined, it is absolutely binding upon the Chippewa Indians. No claim can ever arise in the future against the United States, and this will clean up their matters for all time. Without that provision you are throwing open the gateway to possible claims arising in the future because the Indians have not accepted it, and you are changing treaties and agreements; and therefore, Mr. Chairmen, we submit that for the protection of the Government—and that is what this is designed and intended for, for the protection of the Government—that should be done.

Mr. MERITT. Mr. Chairman, this amendment is objectionable, for these reasons, among others: First, that it throws into the hands of the general council the power to say whether or not this legislation shall be accepted or rejected. The general council does not represent more than 55 per cent of the Indians of Minnesota whose property rights are involved. This legislation contains matters regarding the Red Lake Reservation and their property rights, and the general council has taken a position that is absolutely inconsistent with the position taken by the Red Lake Indians, and the Red Lake Indians, under this language, would have nothing to say in regard to this legislation, and it would throw all their property into the hands of the general council.

The CHAIRMAN. They would have the right to vote, would they not?

Mr. BALLINGER. Absolutely.

Mr. MERITT. They have all refused to participate in the proceedings of the general council or to send delegates to the general council.

The CHAIRMAN. But they have not refused to vote to ratify legislation?

Mr. MERITT. But they have refused to have anything to do with the general council. If a provision of this character is to be placed in the bill it should be so worded that you would get an expression of all of the adult male and female members of the Chippewa Indians rather than get an expression of the members of the general council. That would be proper enough, so as to get an expression from all the Chippewa Indians, rather than from a few of them.

The CHAIRMAN. How would you propose to have this legislation ratified by the Indians?

Mr. MERITT. If a provision of this kind is to be incorporated in the bill, I would have it ratified by a majority of all the adult male and female members of the Chippewa Indians, rather than to place it in the power of the general council.

Mr. ELSTON. What is your opinion as to the law question involved? Would this bill, if enacted into law, be just as binding upon the Chippewas, even if it were not ratified, as if it were ratified?

Mr. MERITT. My position is that Congress has absolute authority to enact this legislation, and it will be binding upon the Chippewa Indians, whether they ratify it or do not ratify it, as shown by the decision of the Supreme Court in what is known as the Lone Wolf case that I have quoted heretofore.

Mr. ELSTON. The only additional feature would be that in case ratification by the Indians were made, it would give it the added sanction of a contract, and of course the rules of evidence and interpretation and some of the rules of law applying to defenses against an act that is passed against the will of a person, even though the legislative agency has absolute rights, would be a little different than they would be if the subject matter of the law was a matter of contract or agreement. Now, is that your contention Mr. Ballinger?

Mr. BALLINGER. The Supreme Court of the United States has settled this question in the case of *Gritts v. Fisher*, 224 U. S. at 648, from the Cherokee Nation. In that case the court held the legislation constitutional and valid, because the council of the Cherokee Nation asked that it be enacted, and the court held that it was binding upon them.

Mr. ELSTON. Do you think objection could be made, then, as to some parts of this act on the ground that it would be a repudiation of an agreement already entered into?

Mr. BALLINGER. Yes.

Mr. ELSTON. And to the extent that it changes an agreement made and nor preexisting law on the same subject it would not be valid?

Mr. BALLINGER. Precisely. It is my opinion that you can not change an agreement by some act of Congress without laying the Government liable to a claim.

Mr. ELSTON. That is in a mixed matter a part of which has been the subject of preexisting law. As to that part there could be no objection, but to the extent that the law also covers matter that has been the subject matter of agreement as well, you do not believe subsequent legislation can affect matters that have been agreed to between the Government and the Indians without the Indians' consent?

Mr. BALLINGER. Precisely that is my position, except this, that all the legislation to which the bureau refers has been in violation of the agreement of 1889 and we do not think it was valid, because it was prejudicial to the interests of the Indians and did not have their assent.

Mr. ELSTON. Mr. Meritt, on the other hand, you contend that notwithstanding this bill covers both subject matters, matters that have been enacted by law without agreement and matters that have been the subject of agreement between the Government and the Indians, that notwithstanding the mixed character of the subject matter in the bill, involving those two kinds of subjects, nevertheless this bill would be valid and binding if enacted into law, and no objection could be made to it; is that right?

Mr. MERITT. I think so, and my authority for that statement is the Lone Wolf decision by the Supreme Court, which I have quoted in the hearings.

Mr. RHODES. What was the point in that case?

Mr. MERITT. The point in that case was that notwithstanding the agreement with the Indians, Congress had the authority and the power to enact legislation, even inconsistent with the agreement, and that the act of Congress was binding upon the Indians.

The CHAIRMAN. Now, the Chairman would like, for his information, a combined bill, one prepared by Mr. Ballinger and one by the bureau, setting forth the amendments, that is setting them into the bill, those that have been agreed upon, and those that are in controversy, that is combining the two. As I understand it now, if anything is reported, there is no serious objection to reporting the jurisdictional bill and the original bill as amended as one bill. What I would like to have before me, for a study of the committee, is just what I have stated here. Take one of these bills and put it together, and interline it, and write it up so that we can have your notions about it before us, and also this, with the matters that have been agreed upon, without comment at all.

Mr. RHODES. Do we not also want Mr. Henderson's idea in the matter?

The CHAIRMAN. Mr. Henderson is going to give us a brief, as I understand it, and these other gentlemen will have 10 days in which to file briefs, and that is something we must consider. I think Mr. Henderson said he wanted to submit a proposed draft of legislation. That would be in addition to all this.

Mr. HENDERSON. That is my desire, Mr. Chairman, but whatever further is said upon this point, I desire it distinctly understood that the Red Lake Indians oppose strenuously the last amendment offered by Mr. Ballinger, and will, when the time comes, indicate by that draft and by the brief what their specific objections are. In order to do that intelligently and intelligibly as well, the representative of the Red Lake Band will have to have before him these two drafts, the one proposed by Mr. Ballinger and the one by the bureau, in order to see how far, if at all, they can concur in the agreement.

Mr. ELSTON. You have been making notes all the while?

Mr. HENDERSON. Yes.

The CHAIRMAN. I am asking for this, for my own information and for the information of this committee. You can get any information you want from any source you please. That is not an official proposition at all. This is simply for our information.

Now, as I understand it, all parties have 10 days in which to file briefs. The report of these hearings will not be printed until such briefs are filed, and they will, of course, be embodied in the record. Now, if you want to embody in your briefs your proposed bills, all right.

Mr. HENDERSON. That is what we would like to do.

The CHAIRMAN. Is that agreeable to the committee?

Mr. BALLINGER. I want to ask you to consider a matter which we have not discussed here. There are provisions in this bill, which you will find as you run along down through it relative to rolls and distinction between Indians on the White Earth and other reservations. I think some explanation ought to be made of them in some brief statement on the section.

The CHAIRMAN. If you want to give us any more information than you have up to this time, you have the right to put it in your brief, but I think there has been discussion enough on both sides

here on the proposed amendments, so that the committee will be fully advised, at least, as to the wishes of both parties, and we can use our own judgment as to what we will do about it.

Mr. BALLINGER. Mr. Chairman, I have here an official statement from the Secretary of the Treasury, showing the accounts of the Chippewa Indians, the Red Lakes, and all of them, and I am going to ask to have that inserted in the record, because it shows the total amount of money that has come into the Treasury, and the amounts that have been expended, and details that the committee probably would desire. A copy of that has been furnished to Mr. Meritt.

The CHAIRMAN. Does that have official sanction?

Mr. BALLINGER. I have the official letter here transmitting it.

The CHAIRMAN. You had better put that in, too, if we put it in at all.

Mr. MERITT. I would want an opportunity to analyze those figures, Mr. Chairman.

Mr. BALLINGER. I furnished the original to Mr. Meritt, and he had a photographic copy made of it, which he has in his office.

Mr. MERITT. We want to analyze those figures, Mr. Chairman, and we will want to show that a large part of this money has gone for the benefit of the Chippewa Indians, and we will oppose any statement going into the record that a large per cent of this money has been expended for administrative expenses.

The CHAIRMAN. Is there any such thing as that in this statement?

Mr. MERITT. Mr. Ballinger intimated that that was the fact in his previous statement.

Mr. BALLINGER. I offer that for just what it shows on its face.

Mr. MERITT. In this connection it should be borne in mind that a large amount of this money has gone for the education of the Chippewa Indians; it has gone for furnishing the old people with food and clothing; and we have also paid out a large amount of money per capita to those Indians in the past, and for that reason the general statement that 50 per cent of this money has been used for administrative expenses is misleading, when you analyze what those administrative expenses have been.

The CHAIRMAN. Aside from that, you have no objection to the insertion of these figures?

Mr. MERITT. No, sir.

The CHAIRMAN. All right, we will insert the letter and these figures in the record.

(The matter referred to is as follows:)

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, February 13, 1920.

Mr. WEBSTER BALLINGER,
Washington, D. C.

Sir: By direction of the Secretary, and in response to your request of the 29th ultimo, there is inclosed herewith a statement of Chippewas in Minnesota trust funds and appropriations for their benefit, for the fiscal years 1889 to 1920, inclusive, the balances stated being as of February 12, 1920.

Respectfully,

R. C. LEFFINGWELL,
Assistant Secretary of the Treasury.

Transactions in Chippewas in Minnesota trust funds and appropriations for their benefit, fiscal years 1889 to 1920, inclusive.

Title of appropriation or fund.	Balances, July 1, 1888.	Amounts ap- propriated.	Receipts, sales of lands, etc.	Repay- ments to appropriations.	Total.	Expenditures.	Carried to surplus fund.	Balances, Feb. 12, 1920.
Chippewas and Christian Indians fund, trust fund.	\$42,560.36				\$42,560.36			\$1,026.80
Interest on above.	1,154.98	\$28,103.28		\$449.69	29,707.95			5,836,725.61
Chippewas in Minnesota fund, trust fund.		1,610,354.24	\$12,862,411.94		13,472,766.18			124,501.72
Interest on above.		4,346,362.58			4,346,362.58			8,435.87
Proceeds of Red Lake Reservation, trust fund.			1,258,968.72	894.48	1,259,863.20			9,960.92
Red Lake Chippewas 3 per cent minors' fund, trust fund.		\$100,246.42			100,246.42			519.32
Interest on above.		12,698.05			12,698.05			341,836.68
Red Lake Forest 4 per cent fund, trust fund.		407,039.20			407,039.20			1,518.20
Interest on above.		9,518.20			9,518.20			2,425.11
Fulfilling treaties with Chippewas of the Mississippi.	468.99	15,000.00		4,004.00	19,472.99			2,159.88
Fulfilling treaties with Chippewas, Pillagers, etc.	17,932.12	158,666.62		5,348.47	181,947.21			1,020.44
Support of Chippewas of the Mississippi (treaty).	173.11	128,000.00			128,173.11			
Fulfilling treaties with Chippewas and Christian Indians, proceeds of lands, trust fund.								\$1,875.85
Support of Chippewas of Red Lake and Pembina (gratuity).		120,000.00	19,409.08		19,409.08			289.17
Support of Chippewas on White Earth Reservation (gratuity).	8,287.40	120,000.00		368.58	128,655.98			24,988.69
Negotiating with and civilization of Chippewas in Minnesota (reimbursable).	4,925.68			225.10	125,150.78			7,317.32
Advance interest to Chippewas in Minnesota (reimbursable).		60,000.00		535.62	60,535.62			2,976.47
Relief and civilization of Chippewas in Minnesota (reimbursable).		1,800,000.00			1,800,000.00			1,865,431.71
Surveying and allotting for Chippewas in Minnesota (reimbursable).		2,350,559.00		3,797.39	2,354,356.39			2,342,623.27
Indian School, Clontarf, Minn.		567,638.55			567,638.55			567,996.55
Indian School buildings, Leech Lake, Minn. (reimbursable).		90,000.00			90,000.00			34,130.24
Indian School buildings, Leech Lake, Minn. (reimbursable).		50,000.00			50,000.00			339.45
Indian School buildings, Red Lake, Minn. (reimbursable).		20,000.00			20,000.00			217.50
Indian School buildings, Red Lake, Minn. (reimbursable).		35,000.00			35,000.00			508.95
Buildings, Leech Lake Agency.		20,000.00			20,000.00			1,226.75
Drainage survey, Chippewas in Minnesota (reimbursable).		35,000.00			35,000.00			500.00
Cemetery, Mille Lac Chippewas.		500.00			500.00			3,167.37
Support of Indian school in Minnesota for Chippewas.		105,000.00			105,000.00			2,025.46
Indian school buildings, Chippewas in Minnesota (reimbursable).		20,000.00			20,000.00			130,000.00
Drainage assessments, Indian lands in Minnesota.		120,000.00			120,000.00			486.03
Enrollment of Chippewa allottees, White Earth Reservation, Minn.		15,000.00		600.00	15,600.00			
Expenses of agreement with Chippewas and Christian Indians (reimbursable).								
Payment to Chippewas on Mille Lac Reservation for improvements.		600.00			600.00			149.85
Payment to Chippewas in Minnesota for damages.		40,000.00		500.78	40,500.78			353.51
Telephone line, White Earth Reservation.		150,000.00		15,161.46	165,161.46			2,876.23
Town lots, White Earth Reservation, trust fund.		1,000.00			1,000.00			9,610.99
Judgment, Court of Claims, Mille Lac Band of Chippewas.			9,470.84	255.00	9,725.84			
Education of Chippewas in Minnesota.		713,654.24			713,654.24			
Payment of drainage assessments, Fond du Lac Reservation (reimbursable).		12,000.00			12,000.00			11,000.00
		13,080.00			13,080.00			13,080.00

* Transferred from "Judgment, Court of Claims, Mille Lac Band of Chippewas."

* Transferred from "Proceeds of Red Lake Reservation."

* Exclusive of \$100,246.42 transferred to "Red Lake Chippewas 3 per cent minors' fund."

* Exclusive of \$610,354.24 transferred to "Chippewas in Minnesota fund."

Mr. BALLINGER. I call the attention of the committee to the fact that under date of January 20, 1919, again under date of April 19, 1919, again under date of January 30, 1920, and again under date of July 19, 1919, I addressed communications to the Indian Bureau, with the request that I be furnished information with reference to the expenditure of funds, particularly on the Red Lake Reservation, so that I might make a comprehensive statement to the committee, or file their statement with the committee, but I have never been able to get any statement from the Indian Bureau with reference to expenditures made from funds not shown on that statement thus far. I would like to have it.

The CHAIRMAN. Have you got what you desire in these figures here now?

Mr. BALLINGER. No, sir. Those figures show the amount that was received and went into the Treasury. Under section 7 of the act of 1889, the departments were authorized to deduct from the funds received, operating expenses, and only the net amount went into the Treasury. Only the net proceeds went in there. What I am trying to get at is the amount of expenditures before the deposit in the Treasury, and I can not get it.

Mr. ELSTON. That is a proper question to ask. We will ask Mr. Meritt for that in one of these items.

Mr. MERITT. We have no objection to furnishing that information to the committee, but the Red Lake Indians object to Mr. Ballinger assuming to handle the Red Lake affairs when he is taking a position contrary to the interests of the Red Lake Indians.

Mr. ELSTON. Mr. Meritt, of course, Mr. Ballinger is here in a little different capacity from that of a meddler. He is here representing practically, so far as outward indications and credentials go, the official representative body of the Chippewa Indians, and that body, representing all of the Indians, would certainly have a right to inquire whether a certain preferential band, as they allege, has had preferential treatment, and if so, to what extent. Now, I should think that the representatives of the whole body should have the right to inquire into the affairs of a particular little group. Now, there was a half intimation in your remark that it was presumption for all the Chippewas of Minnesota to inquire about whether these Red Lakes had not had some draw off they ought not to have had, and it looks to me as if they ought to have full opportunity to find out just exactly how the Red Lake affairs stand, and if they can find that the Red Lakes have gotten anything that belongs to all the Chippewas they ought to have it, if they can establish their claim to it. It looks to me like that is a perfectly proper inquiry.

Mr. MERITT. That conclusion would be absolutely correct, if the general council did represent all the Chippewa Indians.

Mr. ELSTON. Well, so far as the legality of it is concerned—I am not speaking of it now from the standpoint of what you call the merits or essential representation—I am speaking of the legal right by reason of the *prima facie* aspect of the thing, if you want to call it that. They have got the certificate of election, they have got the official representation, so far as the laws permit them to represent that whole body. In essence, you say they do not represent them, but they surely are in a position to legally make demand and get returns on it. Then, if their position legally in getting this data is not a sound

one, you will later take care of that. If the result would be to harass and irritate them merely, in order to get data upon which a legal claim might be established on the part of all the Chippewas to get something from the Red Lakes which the Red Lakes claim they ought to have, I should say it is a perfectly proper result.

You can not contemplate with any degree of aversion the capture by the whole of the Chippewas of something that the Red Lakes think they own and strenuously are keeping. That, of course, is a calamity to those who might be friends of the Red Lakes, but it is purely a matter of right and justice to all of the Chippewas, so I would like to see, myself, this thing opened up to give absolutely free access to everything on the part of everyone.

MR. RHODES. Do you object to furnishing the information for the record?

MR. MERITT. Not at all, but what we do object to, gentlemen—and I want to make it perfectly plain—what we do object to is this: Mr. Ballinger is constantly asking for detailed information regarding Chippewa affairs, and it would take the time of a large number of clerks to get that information for him. Now, we have pressing matters coming up in the Indian Bureau, and we are behind in our correspondence, and this matter can not be settled by anybody except the Court of Claims, and at the proper time we will furnish the Court of Claims with all available information. We have even gone so far in the jurisdictional bill as to say we will furnish attorneys that information free of charge, but we do not want to be harassed continually by these requests for information, which take the time of clerks that have so many other things to do.

MR. ELSTON. What you mean is this. You do not intend to give to attorneys, whether they have a case or not, the mere right of discovery to go into all of your affairs in order that they might possibly rake up something, stale and old, which might be the basis of a claim and in that respect to the extent of giving them a job?

THE CHAIRMAN. That is about the essence of it.

MR. BALLINGER. Mr. Chairman, I have a letter from the Commissioner of the General Land Office, showing the moneys expended outside of those enumerated in the Treasury Department's statement, and I will ask that that be included in the record so that you may have the facts. I have had no difficulty in obtaining information from any other Bureau but the Indian Bureau.

(The letter referred to is as follows:)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, February 21, 1920.

MR. WEBSTER BALLINGER,
Washington, D. C.

MY DEAR SIR: In response to your letter dated January 30, 1920, requesting to be advised as to the total amount expended by this office in the disposal of ceded Chippewa Indian lands in Minnesota under the act of January 14, 1889 (25 Stat., 642). I have to advise you that, according to House of Representatives Document No. 645, second session Sixty-second Congress, pages 11 and 12, mentioned in my letter of January 27, 1920, addressed to you, the total amount reimbursed to the United States May 16, 1911, on account of expenditures for the Chippewa Indians from appropriations by Congress for the relief, civilization, survey, allotment, negotiations, drainage, and for educational purposes properly reimbursable under said act and subsequent acts was \$3,820,439.05. Said Document No. 645 shows an itemized statement of the disbursements, some of which were made under the supervision of the Office

of Indian Affairs. You can probably obtain more definite information in regard to such expenditures from that office.

The expenses of surveying the lands, for which the Government was reimbursable, amounted to \$92,197.42, as computed in this office in 1903, and the total expenses of the various examining corps in the way of salaries to October 31, 1903, were about \$317,000.

This office does not have the figures showing definitely all the expenses incident to the surveying, examining, and selling of the lands and pine timber. These may be obtained from the Indian Office, or from the proper accounting officers.

The total disbursements made by the superintendent of logging up to January 1, 1920, under the act of January 14, 1889, and the act of June 27, 1902 (32 Stat., 400), are \$400,831.20.

Very respectfully,

CLAY TALLMAN, *Commissioner.*

Mr. HENDERSON. In order to make my position clear on the record, on behalf of the Red Lakes I desire to say that the Red Lake Indians reserve the right to show to the committee, which they will do in the brief, their views on this question as to whether the General Council represents all the Chippewas in Minnesota, exclusive of the Red Lake Band. They declare, of course, and they maintain the position throughout this hearing, that the General Council does not represent the Red Lake Band. They will want to be heard as to the extent to which the General Council represents the rest of the Chippewas in the State of Minnesota.

Mr. BALLINGER. Mr. Chairman, I was requested by the president and members of the General Council to thank this committee for the courteous manner in which they have been received, and the careful attention you have given to their matters, and I am merely obeying instructions. Personally I desire to extend my appreciation.

The CHAIRMAN. The appreciation is gratefully received on the part of the committee.

Mr. BALLINGER. Mr. Chairman, this is the first time in almost 31 years that an inquiry has been made into their affairs and they appreciate it.

The CHAIRMAN. If there is nothing further, we will consider the hearing on the Chippewa matters closed, and we thank all parties concerned for the courtesy they have extended the committee.

Mr. HENDERSON. On behalf of the Red Lakes I desire to say that they very much appreciate the courtesy of the committee, Mr. Chairman.

(Whereupon the hearing was closed.)



COMPLAINT OF THE PINE RIDGE SIOUX

HEARINGS

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

SECOND SESSION

APRIL 6, 1920



COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

HOMER P. SNYDER, New York, *Chairman*.

PHILIP P. CAMPBELL, Kansas.

ROYAL C. JOHNSON, South Dakota.

JOHN A. ELSTON, California.

FREDERICK W. DALLINGER, Massachusetts.

BENIGNO C. HERNANDEZ, New Mexico.

MARION E. RHODES, Missouri.

JAMES H. SINCLAIR, North Dakota.

CLIFFORD E. RANDALL, Wisconsin.

ALBERT W. JEFFERIS, Nebraska.

R. CLINT COLE, Ohio.

JOHN REBER, Pennsylvania.

M. CLYDE KELLY, Pennsylvania.

CHARLES D. CARTER, Oklahoma.

CARL HAYDEN, Arizona.

WILLIAM J. SEARS, Florida.

JOHN N. TILLMAN, Arkansas.

HARRY L. GANDY, South Dakota.

WILLIAM W. HASTINGS, Oklahoma.

ZEBULON B. WEAVER, North Carolina.

RICHARD F. MCKINIRY, New York.



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1920

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COMPLAINT OF THE PINE RIDGE SIOUX.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, April 6, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. This hearing is called at the request of certain Pine Ridge Indians, who desire to place before the committee some apparent difficulties under which they are laboring, and the chairman thought it advisable to have the bureau represented, and, also, since the complaint is rather a new one, he thought it advisable to have their statements taken down for future reference. With this announcement, we are ready to listen to any representative of the Pine Ridge delegation who is here and who desires to make a statement.

STATEMENT OF MR. JOSEPH HORN CLOUD, THROUGH MR. JAMES GALLIGO, INTERPRETER.

The CHAIRMAN. I think this witness can speak English well enough to answer for himself. I think we might try it that way for a while.

Mr. HASTINGS. Mr. Chairman, a great many Indians can talk in broken English, and they can make themselves understood, but they can not make speeches and can not talk in a connected way in English. I have had experience all my life with Indians, and I know that is the case.

The CHAIRMAN. There can be no objection to testing him out and seeing whether he can speak for himself or not.

Mr. HASTINGS. No, sir; I have no objection; but I know how timid Indians are about making statements, and I know the difficulty they have in making statements before committees. They are usually embarrassed. The Indian does not think in terms of English unless he has been in the habit of speaking English all the time. I simply make that suggestion to you.

The CHAIRMAN. I sympathize with what you say. I have a very slight knowledge of the Indian language—not enough to know a single word of it—but what I desire, and I think every member of the committee desires the same thing, is to get the thought of the witness himself expressed in his own way. If he can express himself in English, I think we can understand him better than as if he testifies through an interpreter. However, I will not insist upon that if the witness prefers to speak through an interpreter.

Mr. HASTINGS. I understand he has not been in the habit of making statements in English.

The CHAIRMAN. We will proceed with the examination. [To the interpreter] What is your name?

Mr. GALLIGO. James Galligo.

The CHAIRMAN. Where do you live?

Mr. GALLIGO. On Pine Ridge Indian Reservation.

The CHAIRMAN. How long have you lived on that reservation?

Mr. GALLIGO. I was born and raised there.

The CHAIRMAN. Do you know personally all of these men who are here this morning?

Mr. GALLIGO. I know the ones I came with.

The CHAIRMAN. What section of the Pine Ridge Indians do they represent?

Mr. GALLIGO. The whole of them.

The CHAIRMAN. Is it a regularly selected delegation?

Mr. GALLIGO. Yes, sir.

The CHAIRMAN. They are authorized to make statements for the tribe?

Mr. GALLIGO. Yes, sir.

The CHAIRMAN. What is the name of this witness?

Mr. GALLIGO. Joseph Horn Cloud.

The CHAIRMAN. Is he the chief?

Mr. GALLIGO. He is the spokesman for the delegation.

The CHAIRMAN. Of course, the committee here is not advised as to what you desire or what you are here for. The witness can go ahead in his own way and you can interpret his statement. You can state what you are here for.

Mr. GANDY. What county is Horn Cloud from and what is his post office?

Mr. GALLIGO. He is from Washabaugh County.

Mr. GANDY. What is his post office?

Mr. GALLIGO. Kyle.

Mr. GANDY. What county are you from?

Mr. GALLIGO. Washabaugh County.

Mr. GANDY. Is your post office Kyle, also?

Mr. GALLIGO. No, sir; my post office is Interior, in Jackson County.

Mr. HORN CLOUD. I want to say a few words, and I want you to consider them closely for me. We have had a lot of trouble on our reservation, and we can not bear it any longer. That is the only reason why we come over here. One difficulty is because this bad leasing business came in, and we are badly off. We were better off before that, and we did not have any trouble. Since they began leasing land there, there have been more troubles and more disputes over land, and that is what is causing all the trouble. It is the trouble with these young men who are able-bodied and who had been getting along all right up until the times these leases were made. Now, they are overrun by stockmen, and they have trouble in raising their own stock. Other troubles have arisen from the leases. From the way it is now, if an Indian's stock gets in among the white man's cattle or horses they get lost. It is like losing an ant in an ant hill. We have had gardens; we have had little gardens and have gotten along fine with them, but since this leasing business we have been damaged. That is one of the reasons. We suffered a whole lot ourselves, and our stock have suffered because we can not get any hay lands. The superintendent out there

tells the Indians that even when they refuse to lease their lands they got orders from the Indian Bureau to lease that land whether they want to lease it or not.

There are several cases where I have some leases myself. The moneys that are supposed to be paid for the leases go into the hands of the superintendent, and that is deposited somewhere in some bank. They are supposed to get payment every six months, but when the six months are up they do not get the payments. It goes on for one year or two years before they get payments on the leases. We want to find out whether there is any interest to be paid on this money. We can not get that information from the superintendent. I make the suggestion that the Indians whose money is deposited by the superintendent should have a little notebook or account book or an individual account book so that when we go there we can draw our money out. They could put it down and keep track of what is due them.

The CHAIRMAN. Something like a savings-bank book?

Mr. HORN CLOUD. Yes, sir. There are a good many of the Indians who are sick and have money deposited with the superintendent, and they can not get it in time of need. There are a good many of them who have died while waiting for it and trying to get it. I can name a few of them if you want me to.

The CHAIRMAN. We want you to.

Mr. HORN CLOUD. There was one man by the name of Walking-Under-the-Ground. He had more than \$3,000 to his credit, and he could not get any of it. He said that when he was suffering and in need of clothing and food, he could not get anything, and he died. After he died they wanted to find out who was to get the money. Why did they not give it to the man that owned it in the first place, and not wait until he died and then try to find out who should get the money? He had one son there who is not very well. Furthermore, they went to work and buried that old man with rough lumber. There was another called Shoulder; and there is another one named Running-Jumper. Running-Jumper had money to his credit with the superintendent, and his daughter also had some, and they tried to get some of it, but could not. Then the daughter went to work and sold a mare and colt in order to get a coffin for her father. This daughter of his had something like \$600 of her own to her credit. They asked him if there would be clothes for this dead man, and they said, "Why not give it to him when he was alive?" We know, or we remember, how other superintendents were that had been on our reservation, and this superintendent we have now is different from any of them we have ever had. We know a good many men who respect us and who greet us whenever we meet them.

We go to this superintendent's office to have a talk with him, and he tells us to get out; that he does not have time to talk to us. He wants to talk to white men there. I would like to ask you one question, and that is this, whether that office is there for the Indians, or for the white men? I would like to know what you expect us to do with our complaints that we make when we go up there. We are the original owners of this land, and we are having the most suffering. What we want is to remove that superintendent, and if he is not removed, we know that there will be some trouble that will

arise over it. Then, who will be to blame? We have been sent here by the tribe to bring these complaints before the Indian Bureau. We never got any satisfaction there, and we come to this committee to have your consideration. We want some men sent out there to see the conditions on this reservation, so that we can prove our facts. We want them to see these things with their own eyes.

The CHAIRMAN. When are you intending to go home?

Mr. HORN CLOUD. Not until we get through with what we came for.

The CHAIRMAN. Suppose this committee in its investigation were to go to the Pine Ridge Reservation, would these people be there to show us this situation?

Mr. HORN CLOUD. When are you going?

The CHAIRMAN. I think we will be on the Pine Ridge Reservation sometime the latter part of May.

Mr. HORN CLOUD. We will be back before that time. Now, you want to know who would prove up these complaints. Any of them could do it. All of them have the same trouble.

The CHAIRMAN. All of them have the same troubles?

Mr. HORN CLOUD. Yes, sir.

The CHAIRMAN. It seems to me that he has outlined difficulties enough for one day. Of course, Mr. Gandy is more familiar, or should be more familiar, with this situation than any of the rest of us, and I think that before we attempt to go into an investigation of these matters very deeply we ought to let Mr. Gandy interrogate the witness for awhile, anyhow. Mr. Gandy, I wish you would conduct the examination of this witness and get such information as you desire with regard to it.

Mr. GANDY. It is perfectly agreeable to me, if you want me to go on with it.

The CHAIRMAN. My thought about it is that this witness has set forth here a great many difficulties. The Indians out there are undoubtedly suffering, or at least, they believe they are suffering under restrictions and under conditions that have been put upon them since this superintendent has been in charge there. In the talk I had with you before we came in here, I concluded that you knew something about the situation, or, at least, you are the only member here who does know anything about it, except as we have heard from the statement of this witness in the last few minutes. I think you could secure some information from this man that would be interesting.

Mr. GANDY. How far do you live from the agency?

Mr. HORN CLOUD. About 60 miles from the agency.

Mr. GANDY. When you go to the agency, you have to drive through with a team or automobile, or, in other words, there is no railroad connection?

Mr. HORN CLOUD. I go on horseback, on four legs.

Mr. GANDY. Before the war there were very few big leases on Pine Ridge Reservation?

Mr. HORN CLOUD. About the big leases you mentioned, there was a big lease. The biggest lease was Mr. McKee's.

Mr. GANDY. What I want to get into the record is the fact that before the war there were no big leases.

Mr. HORN CLOUD. There were some leases, but no large leases.

Mr. GANDY. If the Indians could get their money promptly from those leases, would they object to the leases?

Mr. HORN CLOUD. Yes, sir.

Mr. GANDY. Why would they object then?

Mr. HORN CLOUD. We would not only be satisfied to get prompt payment. We would be satisfied if there was prompt payment, but we do not want that. We are overstocked, and we want to have farming instead of grazing.

Mr. GANDY. Did you say that the superintendent does not see you when you come to the agency?

Mr. HORN CLOUD. That has happened to me twice. I went there to see him and he ordered me out of his office. I wanted to fight him once in the office. The reason I felt like doing that was because after traveling 50 miles going down there, I was refused, and could not talk with him.

Mr. HASTINGS. Did you see him yourself?

Mr. HORN CLOUD. Yes, sir.

Mr. HASTINGS. Did you tell him what you wanted, or did you talk with him?

Mr. HORN CLOUD. Yes, sir; I told him, but he did not have time, and ordered me out of his office.

Mr. HASTINGS. Did you talk to him in English?

Mr. HORN CLOUD. I started to tell him in English, but I had to use an interpreter before I got through.

Mr. HASTINGS. What did you go to talk to him about?

Mr. HORN CLOUD. I went there to talk to him about leases. It was a farming lease. The man I leased the land to had not fulfilled his agreement, and that is what I wanted to explain, but he would not listen to me.

Mr. HASTINGS. Had you been to see him on the same subject before, or had you been talking to him about the same thing before?

Mr. HORN CLOUD. Yes, sir; that was the second time.

Mr. HASTINGS. How long before had you been there?

Mr. HORN CLOUD. About three weeks.

Mr. HASTINGS. Did he talk to you then?

Mr. HORN CLOUD. The first time I went there he did not have time. There were some white men with him.

Mr. HASTINGS. You never got to talk with him either time?

Mr. HORN CLOUD. I did not talk to him, because he said he did not have time.

Mr. HASTINGS. So this time you went to talk to him a second time, or that was the second time that you have been describing to the committee?

Mr. HORN CLOUD. Yes, sir.

Mr. HASTINGS. You had not been there between times?

Mr. HORN CLOUD. I did not go there any time in between those two times. I had been there and I made this complaint to Inspector Linnen in the presence of the superintendent and Mr. Rosecrans.

Mr. HASTINGS. Was that before this time you have described to the committee?

Mr. HORN CLOUD. This second time was the last time.

Mr. HASTINGS. After you went before Mr. Linnen, who is the inspector of the department, and made this complaint, did you go back again and make this complaint?

Mr. HORN CLOUD. I want to tell you that I went to the office there twice before I told this to Inspector Linnen.

Mr. HASTINGS. You did not get to see Mr. Tidwell either time?

Mr. HORN CLOUD. The second time I went, Mr. Tidwell said that he would talk to me, but he wanted to get through with those other men that were there first, because they had come a long distance. They were white men and they had come in an automobile. Then I asked him if the office was for Indians or for white men. That is when we came near having a fight.

The CHAIRMAN. Tell us what you tried to tell the superintendent. What was your particular grievance at that time?

Mr. HORN CLOUD. I came pretty near having a fight with him because I started to tell him about this man leasing the land and who did not fulfill his agreement. I asked him to see that he did live up to his agreement.

The CHAIRMAN. That is what you went there to see him about?

Mr. HORN CLOUD. Yes, sir.

Mr. GANDY. Who leased your land?

Mr. HORN CLOUD. Thomas W. Brown is the man that leased the land.

The CHAIRMAN. Did he lease it from you personally?

Mr. HORN CLOUD. He leased it through the superintendent. That is my child's land.

The CHAIRMAN. Your child's land was leased through the superintendent?

Mr. HORN CLOUD. Yes, sir.

The CHAIRMAN. After listening to the complaint it seems to me that we get down to two things with which he is dissatisfied. One is that he is dissatisfied with the leases the bureau has made of the land out there, and the other complaint has to do with the management of the business out there by the superintendent. Those are the two things, so far as I can see, that he is particularly anxious to have changed. He says that they have trouble in keeping their accounts straight, and that they can not get the money due them. That, he says, is the fault of the superintendent, and that he can not see the superintendent when he goes there. He claims that the affairs of the Indians are attended to after the affairs of white men are attended to. He is dissatisfied with that, and, of course, that is another complaint against the superintendent. As I say, it boils down to two things: One complaint is that the land has been leased, and he wants the leases canceled; another one is that he wants the superintendent removed and a new man put there who will conduct the affairs of the Indians differently.

Mr. HORN CLOUD. That is our point. We do not want to have any grazing leases. We like to farm little gardens.

Mr. ELSTON. If we take his complaint No. 1, that relates to the superintendent, and his next complaint relating to the leases, it appears that he wants to have those leases canceled. In connection with the second complaint, it might be well to consider whether or not, under the law, the leases that have been issued can be voided.

If they can not be voided, all that we can do, so far as the second complaint is concerned, is to listen to his story and take all of that into consideration if we have anything further to do in connection with the leases. As to his complaint about the treatment he received at the hands of the superintendent, we might, of course, devise some system of checking him up better; but, in connection with the other complaint, is it possible to void the leases for the reasons that he has assigned? I want to know how far we should go into this question. Of course, we can devise some check upon the conduct of the superintendent, but in connection with the other complaint, I want to know whether it is possible to go ahead and void those leases?

The CHAIRMAN. Let us settle that now. Mr. Meritt, how long are these leases made for?

Mr. MERITT. For a period of from one to five years.

The CHAIRMAN. How long have they been running?

Mr. MERITT. For a year and a half or two years.

The CHAIRMAN. Were those leases made with the consent of the Indians?

Mr. MERITT. Those leases covering allotted lands are made with the consent of the individual allottee, except in the case of minors, when the superintendent signs the lease. The superintendent signs the leases in the case of minors and undetermined heirs.

Mr. ELSTON. What legal process is in the hands of the aggrieved party to void a lease if the conditions are broken or the lease violated?

Mr. MERITT. To violate the contract entered into would be unfair to the lessees, for the reason that the lessees have expended large amounts of money in stocking those ranges and developing the ranges. For example, under the terms of their leases they are required to sink wells and fence the range.

Mr. ELSTON. That superintendent, then, as between the two parties, the Government, on the one side, for the Indian, with his consent, if competent, or without his consent if he is a minor, entered into certain leasing contracts, and if the lessees have lived up to those contracts in all essentials, then it is too late to inquire into the policy of making such leases, or into the question of whether or not they were entered into rightly or wrongly. That is a matter of policy, and it seems to me that it would be a mere aftermath here. We may become better advised as to the wisdom of authorizing transactions of that kind again, but, so far as any immediate relief in this case its concerned, it is a different question. Of course, it is a proper thing for this committee to hear these grievances, but when it comes to the matter of what they want us to do by legislation, I want to know whether or not these leases can be voided.

Mr. KELLY. I understood this witness to state things that would have the effect of violating the contracts. The things that he has stated are violative of the contracts; and if a lessee violates his contract, that must be ground for voiding the contract.

Mr. RHODES. The witness has not told us just what the trouble was. I would like to know what the particular act was against which complaint was made.

The CHAIRMAN. I tried to get him to tell what he went to see the superintendent about, and he said it was about the leases. He said that there was difficulty about the leases, and he went to see the superintendent about it.

Mr. GALLIGO. The man that he made the lease with did not fulfill the agreement.

The CHAIRMAN. In what way, or what did he do?

Mr. HORN CLOUD. I went there to explain to him that he had not fulfilled his promise; his agreement was that he was to break up and farm 20 acres and he only farmed about 8 acres; and he was to put in fences around that land. Furthermore, he went as far as to sublease without my consent.

Mr. ELSTON. To get down to this we ought to have, first, the form of the lease and the number of promises made by the lessee, Nos. 1, 2, 3, and 4. First, the amount of rental; next, what is to be done with the land and within what time. It may be two years and he may not have done it, and next with regard to the condition as to when he had to do it. We ought to have the form of the lease in order to know what the lessee agreed to do and within what time he agreed to do it, and if that time has not expired he can not complain until the time arrives. If he has a real grievance then it is an individual matter of administration unless he can show that these things actually exist, that he presented them to the department, and that the department absolutely disregarded them when it was their duty to take them up and act to void the lease. Now, has that appeared? We ought to have the lease.

The CHAIRMAN. As I see it, there has been an accumulation of general complaints, bad feeling, and antagonism among the Indians as against the superintendent over his inability to take care of their individual complaints; he has not, apparently, distributed the money to them which is coming to them under these leases when they required it. Whether he has been unable to do it, whether he has not had a desire to do it, or whether he is a man who has been antagonistic to the Indians rather than to become a leader among them we, of course, do not know. But, as I said a moment ago, the thing resolves itself into two final things. One of them is the fact that they are dissatisfied with the leases which the bureau made for the land they had been using; some of it on which to graze cattle, horses, etc., that has been taken away from them by this lease or they have been forced to distribute their cattle among the cattle of the lessees of the land, so that it is a trouble to them. Then when the money has come in from those leases it has not been distributed promptly to the individual Indians.

Mr. ELSTON. I would like to ask this final question: Does it appear how many leases have been made?

The CHAIRMAN. No.

Mr. ELSTON. Or how many aggrieved persons this witness represents, what proportion of Indian lessors are dissatisfied, whether this is an isolated case or whether it represents a universal complaint?

The CHAIRMAN. I will say that before you came in the witness stated that he qualified as representing all of the Pine Ridge Indians and that they were all dissatisfied.

Mr. HERNANDEZ. Another very serious complaint he makes is that before these lands were entered they were farming and getting along very nicely and that they were raising cattle. I know how those things work because I have lived within an Indian reservation, and he complains that in making these leases with these large cattle companies their cattle have disappeared mysteriously.

Mr. MERITT. In response to the question of Mr. Elston, if you will permit me, I think I can make a statement which will clear up the question in Mr. Elston's mind.

The CHAIRMAN. I am perfectly willing to have you make any statement that will clear up the situation.

Mr. MERITT. During the war there was great pressure to utilize every grazing area in the United States; we had on the Pine Ridge Reservation thousands of acres of grazing lands that were not being utilized by the Indians and from which no income was being received; we believed it was our duty to the Government and to the Indians to lease those lands with the consent of the Indian allottees. There are 8,257 allotments on the Pine Ridge Reservation covering 2,363,813 acres. The Pine Ridge Reservation covers a very large area, three counties being within the Pine Ridge Reservation. We proceeded to make these leases with the stockmen, with the consent of the adult Indian allottees; more than 6,000 leases have been made on the Pine Ridge Reservation and we are getting from 15 cents an acre, for dry land, to 30 cents an acre for land that is watered for these grazing leases. The cattlemen also agreed to make certain improvements in the development of water, the digging of wells and the making of reservoirs, and also they have made certain agreements in regard to aiding the Indians in fencing their allotments, so that the gardens and farms of the Indians would not be injured by the cattle. These cattle were turned on the reservation before these improvements were made and there has been considerable damage to the gardens and the fields of the Indians. It was almost impossible during the last two years to get wire sufficient to fence these allotments. The clerical help at the agency was very limited and it was impossible to get enough clerks to do this enormous amount of clerical work in making these 6,000 leases.

As a result, the money has not been getting to the Indians as rapidly as they would like. We have increased the clerical force at the agency recently, and we have also issued an order that the money should be paid direct from the lessees to the adult competent Indians, thereby avoiding a lot of clerical work in the office. It is believed that within the next few months we can get those gardens and fields of the Indians fenced sufficiently so that they will not be injured by the outside stock, and that under this new leasing arrangement about paying the money to the competent Indians direct and the increased force we now have at the agency, we can get this money to the Indians so that there will be very much less complaint.

Mr. KELLY. Was there any provision in that lease as to the time in which those fences should be put up and ground broken, as mentioned by the witness?

Mr. MERITT. I will include in the record at this point, if agreeable, a copy of the lease.

(Copies of leases are as follows:)

GRAZING LEASE No. 7411. TRIBE, OGLALA SIOUX. ALLOTMENT No. 1506.

This contract, in quadruplicate, made and entered into this 15th day of December, A. D. 1919, by and between H. M. Tidwell, superintendent, for the unknown heirs of James Spotted Elk, deceased, allottee No. 1506 of the Oglala Sioux Tribe of Indians, hereinafter called the "lessor," and the Brown Cattle Co., of Birney, Mont., hereinafter called the "lessee," under and in accordance with the provisions of existing law and the regulations prescribed by the Secretary of the Interior relative to farming and grazing leases on restricted Indian lands.

Witnesseth, that for and in consideration of the rents, covenants, and agreements hereinafter provided for, the lessor doth hereby let and lease unto the lessee the land and premises described as follows, to wit:

All of section 3, township 39, range 40, containing 648.28 acres, more or less, for the term of 1 year, beginning on the 1st day of May, 1919 fully to be completed and ended on the 30th day of April, 1920, subject to the conditions hereinafter set forth.

The lessee, in consideration of the foregoing, covenants and agrees to pay to the superintendent of the Pine Ridge Reservation the sum of \$128.66 per annum as rental for the land and premises herein leased, said sum to be paid in semiannual payments on May 1 and November 1, 1919.

The lessee further covenants and agrees that he will, at his own expense, within six months from the date of the approval hereof, build, construct, and erect the following improvements upon the above-described land: A fence, using three No. 12 Ga. galvanized barbed wires or four No. 12 Ga. black wires, with standard high-carbon flexible angle steel posts, 6 feet long, weighing not less than 7 pounds, galvanized or finished with battleship gray mineral paint put on by the manufacturer, to be set not to exceed 21 feet apart and not less than 18 inches in the ground, said posts to have underground anchorage, placed along the north boundary of this tract.

It is also understood and agreed that any permanent and established road crossing this allotment shall remain open for all traffic. In the event a fence shall cross such road the lessee shall be required to place a self-opening gate and an auto runway in the fence or shall cause the road to be fenced on both sides. All fences being built on section lines must be set in from such lines a distance of 33 feet. Further, the lessee agrees that the number of cattle and horses to be grazed shall be limited to 15 acres to the head and that an excess of 10 per cent over and above such number for a period of 30 days at any one time shall ipso facto work a forfeiture of the lease. It is also expressly agreed that the lessee, or by competent foreman, shall execute and deliver to the superintendent of the Pine Ridge Agency, S. Dak., whenever requested an affidavit setting forth the number of live stock being grazed, all of which are to be constructed in a substantial and workmanlike manner and of durable material; and the lessee further covenants and agrees that all such improvements shall be on the leased premises at the date of the expiration of this lease, or he shall be liable for the payment of the full value thereof as set forth above. It is distinctly understood and agreed by the parties hereto that the lessee shall not be released by reason of fire, flood, wind, or any other cause from his covenant to make the improvements and have the same on the leased premises at the expiration of the lease.

The lessee agrees to keep said premises in good repair; to cultivate, improve, and farm said lands in a husbandlike manner and to the best advantage; to commit no waste thereon; to keep said lands free from noxious weeds; to clean out old ditches and construct such new ditches and laterals as may be necessary for the economical use of water appurtenant to the land, and keep such ditches and laterals free from willows, shrubbery, and wild grasses; to repair and keep in order all head gates, checks, drops, culverts, dams, flumes, and other structures necessary and maintained for the conveyance and control of water; to make beneficial use of all water appurtenant to said land and to guard against excessive use of water or the swamping of said land through leakage or seepage.

The lessee agrees that he will put upon said premises for the purpose of grazing only cattle and horses; that he will not pasture on said land an unreasonable number of animals for the grass and pasturage afforded and that the

will observe all quarantine and other stock laws and regulations now in force or hereafter to be promulgated by the United States or the State in which the lands are situated. The lessee also agrees that all manure and other fertilizer which may be produced upon the leased premises shall be the property of the lessor and shall be distributed upon the leased lands.

The lessee further agrees that at the expiration of the time mentioned in this lease he will peaceably, and without legal process, deliver up the possession of the premises herein described in as good condition as they are now, usual wear and unavoidable accidents excepted.

It is further agreed that if the lessee shall fail to pay the rents when due, or to construct or place the improvements on said lands as contracted for and in the manner herein provided, or shall fail to comply with or shall violate any of the provisions of this contract, the lessor, or the superintendent or other officer of the Indian Service having jurisdiction over the leased premises, may declare the lease forfeited by giving notice as required by law and may thereupon reenter and take possession of the leased premises and eject the lessee therefrom; and this lease shall thereupon be subject to cancellation by the officer of the United States Government by whom it is approved, or his successor in office, but such forfeiture shall not release the lessee from paying all rents contracted for or from damages for such failure or violation; and it is understood and agreed that there shall be a lien upon all crops grown or raised and upon all cattle or other animals pastured and grazed upon the leased lands, as well as upon all animals, implements, or other property placed upon the premises by the lessee as a security for the payment of the rents and the making of the improvements provided herein.

It is expressly understood and agreed by the parties hereto that any sublease, assignment, or transfer of this lease or of any interest therein can lawfully be made only with the consent of the lessor in writing and the approval of the representative of the United States Government by whom this lease is approved, or his successor in office; and that any assignment, sublease, or transfer made or attempted without such consent and approval shall be void and may render this contract subject to cancellation by such officer.

The covenants and agreements hereinbefore mentioned shall extend to and be binding upon the heirs, assigns, executors, and administrators of the parties to this lease.

It is further understood and agreed between the parties hereto that this lease shall be valid and binding only after approval by the superintendent or other officer in charge of the Pine Ridge Indian Reservation or by the Secretary of the Interior.

STATE OF WYOMING.

County of Sheridan, ss:

On this day, January 27, 1920, personally appeared before me, Herbert E. Zullig, the above-named Albert G. Brown, Jos. T. Brown, and acknowledged the signing and sealing of the within instrument to be his voluntary act and deed.

I hereby certify that this lease was signed and sealed in my presence, and to the best of my knowledge and belief is in every respect free from fraud or deception, and that I am in no respect interested in said lease.

HERBERT E. ZULLIG, *Notary Public.*

My commission expires June 7, 1920.

In witness whereof, the parties hereto have hereunto set their hands the day and year first above written.

H. M. TIDWELL, *Lessor.*
Superintendent for unknown heirs.

Witnesses:

R. H. DILL, *Pine Ridge, S. Dak.*

JOSEPH C. THUNDER, *Pine Ridge, S. Dak.*

ALBERT G. BROWN, *President.*

ALBERT G. BROWN, *Lessee.*

Witnesses:

H. E. ZULLIG, *Sheridan, Wyo.*

G. FUNKS, *Sheridan, Wyo.*

STATE OF SOUTH DAKOTA,

County of Shannon, ss:

On this 11th day of March, 1920, personally appeared before me, R. H. Dill, the above-named H. M. Tidwell, and acknowledged the signing and sealing of the within instrument to be their free act and deed.

I hereby certify that the contents, purport, and effect of the lease were explained to and fully understood by the lessor, and that said lease was signed and sealed in my presence, and to the best of my knowledge and belief is in every respect free from fraud or deception, and that I am in no respect interested in said lease.

R. H. DILL, *Lease Clerk.*

BOND.

In consideration of the letting of the premises described in the foregoing indenture of lease, and of the sum of one dollar to each of us in hand paid, the receipt whereof is hereby acknowledged, we the undersigned, American Surety Co., of New York, in the county of New York, State of New York, hereby become sureties for the punctual payment of all the rents and the performance of all the covenants and agreements in the above indenture of lease, to be paid and performed by the Brown Cattle Co., the lessee named therein, and if any default shall be made therein we do hereby promise and agree to pay on demand unto the above-named officer such sum or sums of money as will be sufficient to make up such deficiency and fully satisfy all the conditions, covenants, and agreements contained in said indenture of lease, without requiring any notice of nonpayment or proof of demand being made. And we do hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Signed and sealed this 30th day of January, 1920.

Witnesses:

AMERICAN SURETY CO. OF NEW YORK.
By F. E. BRISBINE, [SEAL]
Resident Vice President.
E. W. PAGEL, [SEAL]
Resident Assistant Secretary.

Witnesses:

F. E. MURRAY.
S. FISHMAN.

VERIFICATION OF SURETIES.

_____, _____, _____ County, ss:

_____ and _____ the sureties to the foregoing indenture of lease, being duly sworn and severally examined by me, state that they signed the foregoing obligation as sureties for the lessee under the annexed lease, and that they and each of them, respectively, own and possess property over and above all debts, liabilities, and legal exemptions of the value and worth of the sum placed opposite their names.

_____, \$128.66.

_____, \$128.66.

Subscribed and sworn to before me, this _____ day of _____, 191—.

[SEAL.]

Notary Public in and for said County and State.

My commission expires _____.

AFFIDAVIT OF LESSEE.

STATE OF WYOMING.

County of Sheridan, ss:

I, _____, lessee herein, being first duly sworn, depose and say that I am leasing the lands herein described for my own use and benefit, and not, either directly or indirectly, for the use or benefit of any other person or corporation; that I have no agreement, arrangement, or understanding with any person or corporation whereby the said lands or any part thereof shall or may be used, enjoyed, or occupied by or for the benefit of any person or corporation other than myself; and that I have only _____ acres of land leased from Indians for farming purposes, including the land herein described.

ALBERT G. BROWN,
ALBERT BROWN, *President.*

Subscribed and sworn to before me this 27th day of January, 1920.

[SEAL.]

HERBERT E. ZULLEG,
Notary Public, Sheridan, Wyo.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Pine Ridge Agency, S. Dak., March 12, 1920.

The within lease is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force, and one copy thereof (or two copies if consideration is to be paid superintendent) is hereby transmitted to the Commissioner of Indian Affairs for record in accordance with the regulations.

H. M. TIDWELL,
United States Indian Superintendent.

GRAZING LEASE No. 7394. TRIBE, OGLALA SIOUX. ALLOTMENT No. 1967.

This contract, in quadruplicate, made and entered into this 1st day of January, 1919, by and between Victoria Around Him (1872), allottee No. 1967 of the Oglala Sioux tribe of Indians, hereinafter called the "lessor," and Ramsay Watkins, of Interior, S. Dak., hereinafter called the "lessee," and in accordance with the provisions of existing law and the regulations prescribed by the Secretary of the Interior relative to farming and grazing leases on restricted Indian lands.

Witnesseth, that for and in consideration of the rents, covenants, and agreements hereinafter provided for, the lessor doth hereby let and lease unto the lessee the land and premises described as follows, to wit:

South half of section 10, township 39, range 38, containing 320 acres, more or less, for the terms of three years, beginning on the 1st day of January, 1919, fully to be completed and ended on the 31st day of December, 1921, subject to the conditions hereinafter set forth.

The lessee, in consideration of the foregoing, covenants and agrees to pay to the superintendent in charge of the Pine Ridge Agency, S. Dak., the sum of \$48 per annum as rental for the land and premises herein leased, said sum to be paid in semiannual payments on the 1st day of January and July, 1919, 1920, and 1921, or will pay the lessor in lieu of cash rental -----

The lessee further covenants and agrees that he will, at his own expense, within one year from the date of the approval hereof, build, construct, and erect the following improvements upon the above-described land: A fence, using three No. 12 gauge galvanized barbed wires or four No. 12 gauge black wires, with standard high-carbon flexible angle steel posts, 6 feet long, weighing not less than 7 pounds, galvanized or finished with battleship gray mineral paint, put on by the manufacturer, to be set not to exceed 30 feet apart, with a wire stay in the center, and not less than 18 inches in the ground, said posts to have underground anchorage, placed along the north side of the allotment, all of which are to be constructed in a substantial and workmanlike manner and of durable material; and the lessee further covenants and agrees that all such improvements shall be on the leased premises at the date of the expiration of this lease, or he shall be liable for the payment of the full value thereof, as set forth above. It is distinctly understood and agreed by the parties hereto that the lessee shall not be released, by reason of fire, flood, wind, or any other cause, from his covenant to make the improvements and have the same on the leased premises at the expiration of the lease.

The lessee agrees to keep said premises in good repair; to cultivate, improve, and farm said lands in a husbandlike manner and to the best advantage; to commit no waste thereon; to keep said lands free from noxious weeds; to clean out old ditches and construct such new ditches and laterals as may be necessary for the economical use of water appurtenant to the land, and keep such ditches and laterals free from willows, shrubbery, and wild grasses; to repair and keep in order all head gates, checks, drops, culverts, dams, flumes, and other structures necessary and maintained for the conveyance and control of water; to make beneficial use of all water appurtenant to said land, and to guard against excessive use of water or the swamping of said land through leakage or seepage.

It is also understood and agreed that any permanent and established road crossing this allotment shall remain open for all traffic. In the event a fence shall cross such road, the lessee shall be required to place a self-opening gate

and an auto runway in the fence, or shall cause the road to be fenced on both sides. All fences being built on section lines must be set in from such lines a distance of 33 feet. Further, the lessee agrees that the number of cattle and horses to be grazed shall be limited to 15 acres to the head, and that an excess of 10 per cent over and above such number for a period of 30 days at any one time shall ipso facto work a forfeiture of the lease. It is also expressly agreed that the lessee, or by competent foreman, shall execute and deliver to the superintendent of the Pine Ridge Agency, S. Dak., whenever requested, an affidavit setting forth the number of live stock being grazed.

The lessee agrees that he will put upon said premises for the purpose of grazing only ———; that he will not pasture on said land an unreasonable number of animals for the grass and pasturage afforded; and that he will observe all quarantine and other stock laws and regulations now in force or hereafter to be promulgated by the United States or the State in which the lands are situated. The lessee also agrees that all manure and other fertilizer which may be produced upon the leased premises shall be the property of the lessor and shall be distributed upon the leased lands.

The lessee further agrees that at the expiration of the time mentioned in this lease he will peaceably and without legal process deliver up the possession of the premises herein described in as good condition as they are now, usual wear and unavoidable accidents excepted.

It is further agreed that if the lessee shall fail to pay the rents when due, or to construct or place the improvements on said lands as contracted for and in the manner herein provided, or shall fail to comply with or shall violate any of the provisions of this contract, the lessor, or the superintendent or other officer of the Indian Service having jurisdiction over the leased premises, may declare the lease forfeited by giving notice as required by law, and may thereupon reenter and take possession of the leased premises and eject the lessee therefrom, and this lease shall thereupon be subject to cancellation by the officer of the United States Government by whom it is approved, or his successor in office, but such forfeiture shall not release the lessee from paying all rents contracted for or from damages for such failure or violation; and it is understood and agreed that there shall be a lien upon all crops grown or raised and upon all cattle or other animals pastured and grazed upon the leased lands, as well as upon all animals, implements, or other property placed upon the premises by the lessee as a security for the payment of the rents and the making of the improvements provided herein.

It is expressly understood and agreed by the parties hereto that any sublease, assignment, or transfer of this lease or of any interest therein can lawfully be made only with the consent of the lessor in writing and the approval of the representative of the United States Government by whom this lease is approved, or his successor in office, and that any assignment, sublease, or transfer made or attempted without such consent and approval shall be void and may render this contract subject to cancellation by such officer.

The covenants and agreements hereinbefore mentioned shall extend to and be binding upon the heirs, assigns, executors, and administrators of the parties to this lease.

It is further understood and agreed between the parties hereto that this lease shall be valid and binding only after approval by the superintendent or other officer in charge of the Pine Ridge Indian Reservation, or by the Secretary of the Interior.

In witness whereof, the parties hereto have hereunto set their hands the day and year first above written.

VICTORIA AROUND (his thumb mark) HIM, *Lessor.*

Witnesses:

HOWARD AROUND HIM, *Wanblee, S. Dak.*

EMILY AROUND HIM, *Wanblee, S. Dak.*

RAMSAY WATKINS, *Lessee.*

Witnesses:

GARFIELD W. DANIELS, *Interior, S. Dak.*

EDGAR FIRE THUNDER, *Allen, S. Dak.*

STATE OF SOUTH DAKOTA,

County of Bennett, ss:

On this 7th day of May, 1919, personally appeared before me, John J. Boesl, the above-named Victoria Around Him, and Ramsay Watkins, and acknow-

edged the signing and sealing of the within instrument to be their free act and deed.

I hereby certify that the contents, purport, and effect of the lease were explained to and fully understood by the lessor, and that said lease was signed and sealed in my presence and, to the best of my knowledge and belief, is in every respect free from fraud or deception, and that I am in no respect interested in said lease.

JOHN J. BOESL, *Farmer.*

BOND.

In consideration of the letting of the premises described in the foregoing indenture of lease, and of the sum of \$1 to each of us in hand paid, the receipt whereof is hereby acknowledged, we, the undersigned, Nathan Cochran and H. C. Dale, of Allen/Rushville, in the county of ———, State of South Dakota, hereby become sureties for the punctual payment of all the rents and the performance of all the covenants and agreements in the above indenture of lease to be paid and performed by Ramsay Watkins, the lessee named therein, and if any default shall be made therein we do hereby promise and agree to pay on demand unto the above-named officer such sums of money as will be sufficient to make up such deficiency and fully satisfy all the conditions, covenants, and agreements contained in said indenture of lease, without requiring any notice of nonpayment or proof of demand being made. And we do hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Signed and sealed this 20th day of May, 1919.

NATHAN COCHRAN. [SEAL]
H. C. DALE. [SEAL]

Witnesses:

EDGAR FIRE THUNDER.
JOHN J. BOESL.

VERIFICATION OF SURETIES.

INTERIOR, S. DAK.

Washabawh County, ss:

Nathan Cochran and H. C. Dale, the sureties to the foregoing indenture of lease, being duly sworn and severally examined by me, state that they signed the foregoing obligation as sureties for the lessee under the annexed lease, and that they and each of them, respectively, own and possess property over and above all debts, liabilities, and legal exemptions of the value and worth of the sum placed opposite their names.

NATHAN COCHRAN, \$144.00.
H. C. DALE, \$144.00.

Subscribed and sworn to before me, this 16th day of February, 1920.

[SEAL.]

H. W. BROWN,
Notary Public in and for said State and County.

AFFIDAVIT OF LESSEE.

STATE OF SOUTH DAKOTA,

County of Washabawh, ss:

I, Ramsay Watkins, lessee herein, being first duly sworn, depose and say that I am leasing the lands herein described for my own use and benefit, and not, either directly or indirectly, for the use or benefit of any other person or corporation; that I have no agreement, arrangement, or understanding with any person or corporation whereby the said lands or any part thereof shall or may be used, enjoyed, or occupied by or for the benefit of any person or corporation other than myself; and that I have only ——— acres of land leased from Indians for farming purposes, including the land herein described.

RAMSAY WATKINS.

Subscribed and sworn to before me this 16th day of February, 1920.

[SEAL.]

H. W. BROWN,
Notary Public for State and County, residing at Interior.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Pine Ridge Agency, S. Dak., March 12, 1920.

The within lease is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force, and one copy thereof (or two copies if consideration is to be paid to superintendent) is hereby transmitted to the Commissioner of Indian Affairs for record in accordance with the regulations.

H. M. TIDWELL,
United States Indian Superintendent.

Mr. KELLY. Do you remember whether there was any period of years in which they could put up those fences?

Mr. MERITT. I do not recall the exact terms of the lease on that particular point, but I will put in the record a copy of the lease.

Mr. ELSTON. Mr. Meritt, those leases run for only five years and they have run nearly two years up to this time and the fences are not up. Do you not think the object of having that clause in the lease is absolutely worthless if the fences were not put up almost immediately? Of course, in the meantime, season comes after season and the lands of the Indians are not only injured but they claim they have not received their money. The land is being injured by reason of trespassing by cattle and it is only a year and a half longer until the termination of the leases.

Mr. MERITT. The fences are up to a very large extent, but during the war it was impossible to get the wire with which to fence these allotments. My understanding now is that the fences are up in a large number of cases, but there may be some cases where the fences are not sufficient.

Mr. RHODES. That may all be very true but are those leases silent as to the length of time in which the fences are to be built or do they fix the time in which the fences are to be built?

Mr. MERITT. I would prefer to submit the leases themselves so they could speak on that particular point. The Indians themselves are required to fence their own allotments and in certain cases the lessee is required to assist the Indians; it is not the duty of the lessee wholly to fence the Indian's allotment but the duty is also on the Indian.

Mr. RHODES. I am not speaking in defense of anybody particularly but I wanted to know whether or not the lease specified the conditions under which the fencing was to be done and, if so, if the conditions have been met.

The CHAIRMAN. The witness is unable to answer that.

Mr. MERITT. I will furnish that information for the record.

Mr. RHODES. Then I will ask this one other question: Does the lease provide when the money is to be paid for the use of the land?

Mr. MERITT. Yes, sir.

Mr. RHODES. How often is that payment to be made?

Mr. MERITT. I think it is to be made semiannually.

Mr. RHODES. Do you know whether the payments were made according to the terms of the lease.

Mr. MERITT. As I stated it has been very difficult to even get these leases executed because of the large number of leases; there were 6,000 leases; and there has also been a delay in getting money to the Indians because it was impossible during the war to get sufficient

clerical help at any of these agencies to do the actual and necessary work that was required, let alone the additional work that this leasing would require. It was absolutely impossible to get employees at these agencies and schools.

The CHAIRMAN. Let us see whether we can not get through with this witness and not keep him standing here too long. We want to give him the treatment he thinks he is entitled to and that we think he deserves. Have you anything further you desire to say?

Mr. HORN CLOUD. I have a whole lot to say but it would make you tired listening to it.

The CHAIRMAN. Has what you would like to say to us approximately the same bearing on the situation as the things you have already said?

Mr. HORN CLOUD. The main trouble started when this man had leased this land; he wanted to lease this land and he drew up his lease with a few of us and before he went any further he just turned his cattle in there, just before the leasing of this land.

Mr. ELSTON. That seems obvious from what Mr. Meritt said, that as soon as the general system had been approved, and before they got all the signatures, they turned in the cattle, as if they owned the whole thing, and in the meantime went along as they pleased.

Mr. HORN CLOUD. They were to put in their fences within six months from the date of that first lease and they did not do it; he also told the Indians that he would fence up some of their lands for them and pay for the damage, but he has not done it yet. Now, they have been damaged and nothing done about it, and they do not like it.

The CHAIRMAN. Who is to blame for that?

Mr. HORN CLOUD. Of course, McKinnon is partly to blame, and the superintendent is in charge of it; he is to look after our affairs, but he does not do it.

The CHAIRMAN. You heard Mr. Meritt say there had been 6,000 leases made within the last year and a half, and that is a great many to handle. Whether the superintendent has done the best he could do or not it is difficult to tell, but undoubtedly it has been a tremendous amount of work for anybody or any set of men to care for and have all the leases handled in a satisfactory way to the individual Indians. It has been a tremendous thing to do and some people are bound to have been mistreated, perhaps, and dissatisfied on account of the amount of work necessary to be done. It seems to me that 6,000 leases to be made in a year and a half in any section of the country would be a difficult job and that it would take a lot of men to do it.

Mr. HORN CLOUD. All of those leases were not made the same day?

The CHAIRMAN. Of course not; but there would have to be a good many made each day in order to make 6,000 leases, for if there were 6,000 made in six months it would be a tremendous job.

Mr. HORN CLOUD. That man McKinnon said he had permission to put up that fence within six months, and at the end of that six months he was to pay for it.

Mr. RHODES. I would like to ask whether you know how often this money is to be paid according to the contract?

Mr. HORN CLOUD. Under the agreement, we were to receive payment every six months, but some of that has run on for two years.

The CHAIRMAN. And no payment made?

Mr. HORN CLOUD. No payment within that time, and that is on reason why the Indians want to take their land back.

Mr. KELLY. Are you a full-blood Sioux?

Mr. HORN CLOUD. Yes, sir.

Mr. KELLY. How many competent Indians are there on the Pine Ridge Reservation?

Mr. HORN CLOUD. Mr. Meritt ought to have a record of it through his superintendent. I can not tell you exactly how many there are.

Mr. KELLY. The point I wanted to make was that it was laid down here as a fundamental rule in the Chippewa hearing that the Indian Bureau considered itself especially the guardian of the full-blood Indians, and that the shrewd, sharp, and skillful half-breeds are the men who are trying to take advantage of the full-bloods. I want to bring out whether you full bloods on the Pine Ridge Reservation are not getting a square deal from the Indian Bureau and the superintendent?

Mr. HORN CLOUD. I was talking about these competent Indians and there are a good many of them. There are some of them who would go to the superintendent and he would tell them to go to see the man that leased the land for payment; then he told them to go to the farmer and then the farmer will tell him to go to the agent. Well, he would tell him to go to the man that leased it, and they would just keep him going all around.

The CHAIRMAN. That situation prevails right here in the city of Washington. It is no worse up there than it is here. If we want to find out something to-day in a bureau here in the city of Washington we will go to six or seven places before we find a man who can tell us, perhaps, where the man is we want to see. I believe Mr. Gandy desired to make a statement.

Mr. GANDY. I want to make a statement for the record that may be helpful to members of the committee in considering the problems that have been brought up this morning. I sympathize with the Indians very deeply on Pine Ridge Reservation in most of their complaints, and quite largely the complaints are just. For some of them, perhaps, the Indian Service is responsible and for some of them, perhaps, Congress is responsible, because a limitation has been placed on the expenditures of the reservation beyond which the Indian Service can not go in the acquirement of help. For some of them no one is responsible, because the condition was brought about by the war. The Pine Ridge Reservation is in the southwestern part of South Dakota, and it covers a territory of approximately 60 by 90 miles. One county of the four has been formally opened to settlement, but even in that county there is a large number of Indians. The agency is in the extreme southwestern portion of the reservation, near the Nebraska line. There is not a mile of railroad on the reservation, so that everybody who goes to the agency must go overland. There are seven farmer districts, as I recall it, and, hence, even the farmer districts are of large size. The reservation has, in round numbers, as I remember it, approximately 7,000 Indians on the roll. Therefore, it is one of the larger reservations of the country.

The CHAIRMAN. Are they all allotted?

Mr. GANDY. Yes, sir; they are all allotted. Right at that point, I will take up the question of the allotments: The Pine Ridge Indians decided some years ago, and it was agreed to by Congress in the law, that the allotments should be of large size.

Mr. HASTINGS. What is the size of the allotments?

Mr. GANDY. Six hundred and forty acres to the male adult, 320 acres to the wife, and 160 acres to the child. They took up approximately all of their land, so that there was little to be opened by the usual homestead opening on this reservation. To adopt an expression often applied to white people, the Indians on the Pine Ridge Reservation are land poor, and there appears to be an excessive acreage owned by the Indians there as compared with land ownership on other Indian reservations. It was unfortunate, indeed, that the last of the Indian troubles in South Dakota occurred upon the Pine Ridge Reservation. That was the Wounded Knee trouble in 1890.

The CHAIRMAN. Was that the Custer trouble?

Mr. GANDY. No, sir; I think it was in 1890. John R. Brennan was the first superintendent under the Indian Bureau, following the control of the reservation by United States troops. Brennan served there a great many years, and it was only within the past two or three years that he went out of the service there. He was succeeded by Supervisor Ellis, who served as superintendent, and then he, in turn, was succeeded by Henry M. Tidwell, who, according to my information, came to the reservation from the Union Agency, at Muskogee, Okla.

The CHAIRMAN. In what year?

Mr. GANDY. I am unable to give the date, but within, perhaps, two or three years ago.

Mr. MERITT. He went there December 1, 1917.

Mr. GANDY. He is the present superintendent. There is no question but that Mr. Tidwell has been seriously hampered almost to distraction, both because of the lack of help and the quality of the help he has received. I hold no brief for Mr. Tidwell. I met him but once, and that was here in Washington; but I know that he has been unable to keep up the general administrative work of the reservation as it should have been kept up, because he did not have sufficient help to do it. According to my understanding, in many cases, cattle were turned in on the land after the agreements were made, but before the actual leases were signed up. A great many of the money payments were made promptly, according to the terms of the agreements. They were made to the superintendent of the agency, and then they had to be distributed as soon as they could get to it.

I have not been there the past two years, and I have never been there except for short periods, but my understanding is that they have been trying hard to get in such shape that they can make the payments, and some of them have been made. I have in mind one lessor by the name of Thomas Ward, who had several thousand acres leased in Washabaugh County, and in distributing the money, Mr. Ward paid the Indians direct by checks. He had the paid canceled checks and receipts to show for it, because the leases had not been made in time for the payments to be made in the regular way

through the agency. Mr. Meritt spoke about the difficulty in getting wire for fencing purposes, and I know something about that myself. My own ranch is located probably 35 miles from the border of the reservation, and I have just been advised of the delivery of wire at the railroad station near my ranch that was ordered nearly a year ago. Money for the payment was ready at any time that the store there could deliver the wire, but they have just now got it.

Now, one other thing with reference to the delay in making payments where the Indians have money coming to them through estates: There have been more deaths on the Pine Ridge Reservation than there have been decrees of heirship, and that is also true of the Rosebud Reservation and other reservations.

I have discussed that with this committee before, and there should be some way provided by which there could be a sufficient number of examiners of inheritance so that that work could be brought up to date. There should not be a long time elapsing, three, four, or five years, in the determination of the heirs and the distribution of the property. In many cases, while it is true that the Indian has money on deposit, the heirs have not been legally determined, and the superintendent is powerless to pay out the money. The Indian Office is powerless to pay out the money without a decree duly approved by the Secretary of the Interior. The troubles that these Indians are bringing up here are basic, and they apply not only to this reservation, but to other reservations. I am glad to see the matter brought up. The limitation of \$15,000 on the employment of help on these reservations, under the present-day scale of wages, ought to either be increased or done away with altogether. There ought to be sufficient help to do this work and do it promptly, and when we make provision for that we will not have such complaints as are made here to-day. We will be hearing these complaints just as long as they hold down the expenses for help on the reservations within that limitation.

Mr. KELLY. Leaving aside the question of the lack of help, I want to ask this question of you, as a man who is engaged in that business, and that is, whether, or not, it is possible to void one of those grazing leases where it appears that the lessee does not live up to the terms of the lease?

Mr. GANDY. I think it is. I know of cases where they have been voided. Now, just one other point: There is quite a lot of water on the Pine Ridge Reservation, and the grazing lands that Mr. Meritt spoke of which were not leased prior to the time we went into the war, are dry lands back from the streams. There never was any difficulty in leasing the lands along the streams and they are getting them utilized.

The CHAIRMAN. The lands were leased previous to the war?

Mr. GANDY. The lands along the streams were leased, but there were hundreds of thousands of acres of land back from the streams that were dry, and those lands never had been leased. Of course, as the lands became available and cattle were bringing high prices, the demand for leases went far beyond the capacity of the agency to handle the work and that is what brought about this situation.

Mr. RHODES. Do you regard the amounts paid under these leases as fair charges for the use of this property?

Mr. GANDY. A week ago last Monday, or one week ago yesterday, within 35 miles of the border of this reservation, I leased from the State of South Dakota at public auction three sections of grazing land at 18 cents per acre, without any requirement whatever as to improvements. That is the best answer I can make to that question.

Mr. HASTINGS. Is that land similar to this?

Mr. GANDY. It is similar land.

Mr. RHODES. Taking your figures as the basis for computation, suppose an Indian has a wife and four children, upon the basis of the allotment made to him and his family, they would have 1,600 acres of land?

Mr. GANDY. That would be two and one-half sections.

Mr. RHODES. That would be 1,600 acres, and at 20 cents per acre, the income from the lease would be \$320. That would mean that a man and his family owning 1,600 acres of land would derive an income of \$320 a year: Now, in your opinion, if an Indian put that property to his own private use as grazing lands or hay lands, would he make more than he would under a lease?

Mr. GANDY. I will make a statement with reference to that.

Mr. RHODES. I was wondering whether the Indian was better off with the lands under lease, or worse off.

Mr. GANDY. It is not my understanding that the lands the Indian used himself are leased. I may be wrong about that. As I said before, I have not been on the reservation since this unusual condition came on. As Mr. Meritt well knows, I have been opposed to large leases, and I have been to the Indian Office many times on that matter. I have insisted that wherever it is possible to lease land in small tracts to some one willing to utilize it, it should be done.

Mr. RHODES. Do you think that the Indians are better off with their lands under lease than they were before?

Mr. GANDY. I am unable to say, because I have not been on the reservation recently, and I do not know the physical conditions on the ground.

The CHAIRMAN. You stated awhile ago that the lands back from the water were not leased, and, of course, if they are not leased, no one was using them that had any right to use them.

Mr. GANDY. Unquestionably. Answering Mr. Rhodes's question, many of the Indians would be better off with the leases than they were before, and some of them would be worse off. Take, for instance, Washabaugh County; that territory covers approximately 42 miles one way and 36 miles another way, and there is but one post office in the county. That tells the story as to the lack of people in that county.

The CHAIRMAN. I do not understand that these Indians are finding fault with the price received, but my understanding is that they are finding fault with this condition, that the men who leased their property are not receiving their money. They own the lands which were leased, but they are not being paid the prices agreed upon. There has been no question raised, as I understand it, as to the price that was fixed, but the difficulty is that they are not living up to the agreement. They also complain that the superintendent is not insisting upon these agreements being carried out and that because of that condition they are not getting their money, or the money that it was originally agreed they should have.

Mr. GANDY. I tried to explain the condition that has brought that about.

The CHAIRMAN. I do not altogether agree with you about that. I do not agree with you that there was not money enough to conduct the business properly. I do not altogether agree with your statement that there are not employees enough. I am willing to admit that there was a tremendous amount of work to do, and they were not able to do the work, probably, because, in the first instance, the employees were not getting money enough for their services to make them enthusiastic about it, or to do the amount of work that an ordinary man would do if he were satisfied with his job.

Mr. GANDY. I pay more money on my ranch for good farm help than under the law the farmer on this reservation can receive. I am referring now to the official we designate as "farmer."

The CHAIRMAN. I quite agree with you on that. Now, do you think that the farmer who, as you say, is underpaid on the Indian reservation, is doing as good work as he would do if he were satisfied with his employment?

Mr. GANDY. I think they have great difficulty in keeping the place filled.

The CHAIRMAN. That is largely due to the fact that they either do not get sufficient pay—

Mr. GANDY (interposing). If you take the other class of help, you will find that the stenographer working for the Government on the Pine Ridge Reservation receives \$75 per month, whereas the same stenographer could come here to Washington and receive from \$100 per month up.

The CHAIRMAN. That is a question that comes up every time we get into a discussion of the difficulties on the reservations. The question of salaries and employees is always raised. Now, I have an entirely different notion about that. I think that the difficulty lies in the fact that the superintendent has too many employees under the appropriation and that a sufficient amount of money has not been paid for really effective employees who can actually administer the work. I think we could go right through these reservations now and trim out about 50 per cent of the employees, and get the work done by paying the balance of the employees what they are worth. If they would select the really efficient men in their offices, and pay them more, I am satisfied that they could get much better service and much more work done. The difficulty has been, as I see it, during this period of the war, that the number of employees has been greatly increased, while no one has had an increase in salary, except the bonus, which has been paid to all of them. You can not expect to get good service in that way. You have pointed out a practical instance of that right there on your ranch, because you say that you are paying ordinary farmers, or men who work on the farms, more money than this expert farmer on the reservation gets for his services. I maintain that under those conditions you can not expect an expert farmer to go around with any enthusiasm, or with the enthusiasm he would have if he were really a satisfied employee trying to do what he could.

Mr. GANDY. You do not get an expert farmer at that salary.

The CHAIRMAN. Of course you do not, and if you do not get a good one, you had as well not have any. I know that we have tried

to discover what work the farmer does, what the matron does, and what the inspector does, but I have been unable to find out what any of them did.

Mr. GANDY. Primarily it is supposed to be the duty of the farmer to give the Indians instruction in a scientific way in regard to agriculture and stock raising. He has a territory of, perhaps, 30 by 50 miles, or greater—some of them have a territory far in excess of that. In addition to that, you give him enough clerical work to keep him busy seven days per week in the office. He has a sorry little team to go around over the reservation. As for Mr. Tidwell, he does not have time to go around, because he should be at the agency.

Mr. MERITT. I think Mr. Gandy can explain to the committee that these seven farmer districts are what may be called subagencies. There are seven districts, and the districts are very large. The reservation is so large, that all the people having business can not go to the agency headquarters, and therefore they go to the headquarters of these farmer districts or subagencies. These farmers handle all of the little business affairs of the Indians, such as the leasing of land, and making reports to the superintendent as to the conditions on the reservation. The farmers have a good many administrative duties to perform besides their regular farming duties.

Mr. GANDY. Four of those farm districts are located in one county.

Mr. KELLY. What do they receive?

Mr. MERITT. \$900 and their quarters. We are trying to have all of them provided with Ford cars.

The CHAIRMAN. If the people who have leased these lands would carry out their agreements, and if the superintendent were in a position to handle these leases and pay out the money promptly, that would overcome most of the difficulty, would it not?

Mr. HORN CLOUD. We are dissatisfied now with the way it is. The land is damaged now, and we can not do anything with it after they are done with it. That is the reason we want the leases canceled.

The CHAIRMAN. You had as well learn this at first as at last, that as far as this committee is able to determine, there may be a few leases that could be canceled, but the balance of them could not be canceled.

Mr. HORN CLOUD. Lots of them do not do right. Those men that have the smaller leases are living up to their leases.

The CHAIRMAN. There is another thing that you as well as all the other Indians on the Pine Ridge Reservation should understand, and that is this committee has absolutely nothing to do with the hiring and discharging of the superintendents.

Mr. HORN CLOUD. We want some one from the department or the committee to go out there and see the conditions with their own eyes.

The CHAIRMAN. We have been glad to give these Indians the right to bring their troubles here to this committee, and we are making their statements a matter of record so that the Indian Bureau will know that this committee knows what your grievances are. That is all that we can do in the case. With that knowledge before us, we feel sure that if the bureau has not been conducting the affairs of the reservations in a proper or satisfactory way, they will change

their methods and attempt to do the work in the way you want it done.

Mr. HORN CLOUD. The majority of you have never been on the reservation. That man over there has never been on the reservation and does not know the condition of it, and this man here, Mr. Meritt, just goes by what is reported to him, but aside from that he does not know what is going on. They all do just what you are doing, smoking a cigar.

The CHAIRMAN. If we could go to the Pine Ridge Reservation and sit down among the people there, and have a meeting just as we are having now, these men would come before the committee and tell us what they are telling us now. Why is not all of the information as available here as if we were hearing it out there? What could you show us out there that you are not showing us here?

Mr. HORN CLOUD. I will tell you that they have not been doing right. They sit there smoking their cigars and writing reports. They send them to the bureau, and they approve them. They may want to ask a little increase in order that they may have a little more cigar money. We would like to have this thing investigated.

Mr. KELLY. This man, Mr. Horn Cloud, is a live wire, and I like his dynamic manner. I believe that he is fully able to take care of himself. Now, if the superintendent were taken off the reservation, with all of the Indian Service, and the Indians of the Pine Ridge Reservation were left to take care of themselves and manage their own affairs, could they successfully handle their allotments without any help from the Indian Service at all?

Mr. HORN CLOUD. Yes, sir. There are some old men that need a little care, but we could take care of them.

Mr. KELLY. That is what should be done.

Mr. GANDY. For the information of my colleagues on the committee, I will say that it is my recollection that there are approximately 3,000 Indians on the ration roll on the Pine Ridge Reservation.

The CHAIRMAN. There is absolutely no use in the Pine Ridge Indians getting any idea that they will be made entirely independent of the Indian Bureau. While you may want to be rid of the Indian Service, it is not within the power of anybody to bring that about now. You could not do it yourself because, as has just been stated, you have 3,000 Indians up there now on the ration roll to-day. When you gentlemen came in the other day, the first thing you told me was that you wanted to abolish the Indian Bureau, and I told you then that that could not be done. The Indian Bureau will have to exist for many years to come, and your affairs will have to be handled to a greater or lesser degree by the Indian Bureau. The less antagonism you have, the more patient you are, and the more you try to get along with them and not believe they are all bad, the better off you will be. It is not a good thing for a set of men to put themselves up as being opposed to the people with whom they must deal. We have the same difficulties in practical business life to-day. We have great organizations of labor, and they send their committees to us. We do not always feel like granting their every wish and desire, and it can not always be done, but we must sit down and listen to them. We must talk it over together and try to meet each other on some common ground that

will be to the best interest of all parties concerned. It is not a good thing for a half dozen men to set themselves up as being opposed to a condition which must exist.

Mr. KELLY. I want to put in the record here the statement that I feel that these Indians have a perfect right to want to be free men. They are human beings, and, as such, and as the original owners of this land, they have a right to that aspiration. I want to see Congress adopt the policy that these Indians, when they desire it, shall be freed from these restrictions and be placed in a position to take advantage of their own resources, and take their places as free men and women. [Applause.]

The CHAIRMAN. In answer to that, let me say that there is no disposition on the part of any member of this committee to insist that that situation should not come about; but it is an absolute fallacy to lead the Indian to believe that within a short period of time he is going to be made entirely free and independent of the bureau, or that he can cut himself entirely away from the bureau, because Congress will not take any such position as that, notwithstanding the fact that it may be the wish and desire of some. That is an impracticable thing, and can not be done in the interest of the Indians themselves.

We sometimes nearly come to the conclusion that on the whole it might be a good plan to turn all the Indians loose upon their own resources, but when you come to examine into it and to look into all of its ramifications you must at once conclude it can not be done. I believe that while Mr. Kelly is enthusiastic and patriotic and wants to make the Indians independent of the Indian Service, he himself knows that it can not be done, and that we have got to go on with the system as it is until it can be improved. Now, we are trying to improve the system so that the Indian can get just what he is entitled to until such time as he is able to take his own property and manage it for himself. No one desires more than I do to see the Indians become self-sustaining citizens, and I am working with that end in view, but we must not lose sight of the fact that we have been from 130 to 140 years bringing the Indian to the condition in which he now is. Some people believed that when women were allowed to vote the whole country would be revolutionized and that all the ills of man would be straightened out and corrected immediately.

Now, it seems to me that it is impossible for anybody to believe that something which has been going on for 140 or 150 years, and in which we have developed so many difficulties, could be straightened out by waving a magic wand, or something of that sort. I think I am right when I say to you that we must all work together, and keep out all the antagonism we possibly can. Now, I notice that that speech does not get any applause, but when we get through with it, I think you will find that what I have said will come nearer to being what will happen to you than that which Mr. Kelly has said.

Mr. GANDY. I want to correct one statement in the record by Mr. Horn Cloud, to the effect that I was never upon the reservation. I have been many times on the reservation, and in every county of it. I also want to correct my own statement that there were 3,000 Indians on the ration roll of the reservation. The report shows that there were 2,092 last year.

Mr. HORN CLOUD. I want to say that Mr. Gandy has made a mistake. He said that they were all allotted, but there are somewhere around 600 that are not allotted.

Mr. GANDY. I said that the land was all allotted. I did not say that all the Indians were allotted.

Mr. HORN CLOUD. There are some there receiving rations that ought not to receive rations, and there are others who should receive rations that are not getting them.

The CHAIRMAN. The time for adjournment or recess is coming to hand. This gentleman has had two hours. Is there any other member of the band who desires to be heard? I do not think we ought to give all the time to this man, unless the other members of the delegation want him to take all the time.

STATEMENT OF MR. JAMES H. RED CLOUD, THROUGH MR. JAMES GALLIGO, INTERPRETER.

The CHAIRMAN. Whom do you represent?

Mr. RED CLOUD. The tribe.

The CHAIRMAN. Are you a delegate the same as the previous witness?

Mr. RED CLOUD. I am the main delegate, and I take the place of my grandfather, Chief Red Cloud.

The CHAIRMAN. You have heard all the previous witness has said?

Mr. RED CLOUD. Yes, sir.

The CHAIRMAN. Can you tell us anything different from what the other witness has said?

Mr. MERITT. Red Cloud is a relative of the famous Chief Red Cloud, one of the best-known Indians in the United States.

Mr. RED CLOUD. The first thing I want to say is that I have made an agreement that I would be friends with the Government, in 1914, and we have agreed that if there is any man appointed by the Government I am to help him; whichever way he falls I, too, fall the same way, and wherever he sheds blood I am to shed blood, and if at any time we need help from each other we are to give it. There are some things going to happen on our reservation and I do not like to see it come on and I don't want any more trouble on our reservation, because there are a good many children among them. The superintendent we have there does not treat the Indians right. When the war was on we leased that land in order to provide for the ones that went across. We wanted that to come to an end when the war was over, and as the war is ended we want that to end, too. It is pretty hard there for us on the reservation. The reservation is covered with cattle like a whole lot of worms on it. I can not raise any garden and can not do anything. The superintendent went as far as to try to put some Indians in jail for driving cattle away from their gardens. There is a lot of trouble like that on our reservation and that is one of the reasons why we want this lease to be abolished and the superintendent removed, and in that way we will get along better.

The CHAIRMAN. You said you were certain there was going to be trouble up there. What do you mean by that?

Mr. RED CLOUD. It is just like this: That superintendent there is holding some of the Indians' money and got it tied up in a sack and has it sitting on a table like this and we circle around there, and some of them are dying and have died.

The CHAIRMAN. But that does not answer my question about the trouble. Who is going to make trouble and what kind of trouble is it going to be?

Mr. RED CLOUD. The superintendent is going to cause it.

The CHAIRMAN. I know, but just ordinary peaceful trouble or is some one going to go out and raise a band to lynch the superintendent, or something of that sort?

Mr. RED CLOUD. It is just like this, there is a man who has got some money there and he is trying to get it; if he has a sick child, and wants to get that money for his child and can't get it and if the child dies he will surely raise trouble.

The CHAIRMAN. I understood from your original statement the suggestion was that there might be actual trouble that would go to the extent of somebody getting hurt?

Mr. RED CLOUD. I can not exactly tell you how that trouble will be, but we want to try to avoid it before it comes.

The CHAIRMAN. Suppose this superintendent were removed and a new one put in; it would take him some time to become acquainted with the situation and there might be greater delay in paying out the money than there would be if this man were continued.

Mr. RED CLOUD. If there was a man sent there that was capable of looking after the affairs of the Indians, we wouldn't have any trouble at all.

Mr. RHODES. Two Indians were named awhile ago by the previous witness as dying under conditions of great want and privation. I would like to ask whether you know about the circumstances?

Mr. RED CLOUD. They are true facts.

Mr. RHODES. About how long ago was it that these two men died?

Mr. RED CLOUD. I know of two that died just this last March.

Mr. RHODES. When did these die that the previous witness referred to? I want to know whether this was a recent occurrence or something that transpired a long time ago?

Mr. RED CLOUD. No; this was in March.

The CHAIRMAN. March of this year?

Mr. RED CLOUD. Yes.

Mr. HASTINGS. Within the last 30 days?

Mr. RED CLOUD. This March that just passed.

Mr. RHODES. Last month?

Mr. RED CLOUD. Yes.

Mr. RHODES. Are you talking about the same two that the other man was talking about?

Mr. RED CLOUD. There are lots of cases like that, but the one I have reference to is different than that one.

Mr. RHODES. When did these men die that the other witness referred to? That is what I am trying to get at.

Mr. RED CLOUD. I know they died but I could not give the date that they did.

The CHAIRMAN. I would like to ask Mr. Meritt a few questions with regard to this matter. You have heard all that has been

said here and the difficulty seems to be that the superintendent has not been able to manage the affairs up there to suit these Indians. Whether because of personality, because of lack of facilities or lack of assistance, he seems to have antagonized the Indians, principally because he has not been able to pay them their money promptly, as I see it, and has not been willing, or has not been able, to explain to them the reasons for not doing it. What do you say as to whether or not the conditions have changed so that he can almost immediately overcome the difficulties?

Mr. MERITT. I think it is possible for Supt. Tidwell to overcome 90 per cent of the difficulties that have been encountered during the last two years on that reservation, and these difficulties can be overcome within the next few months. I know Mr. Tidwell, not intimately, but have met him a number of times, and he is a man of considerable ability. He was chief clerk of the Five Civilized Tribes at Muskogee, Okla., prior to his appointment as superintendent on the Pine Ridge Reservation. Mr. Tidwell, prior to that, had not had experience with Indians outside of the Five Civilized Tribes, and he had undoubtedly, in handling this very large and difficult problem, antagonized certain Indians on the Pine Ridge Reservation. It should be borne in mind, however, that this is not wholly the fault of Mr. Tidwell, because this great leasing problem has been brought about during the last two years. It was clearly the duty of the Government to lease that land, but Mr. Tidwell was very greatly handicapped on account of not having sufficient clerical help. It was impossible to get clerks at these agencies during the war, and it has been exceedingly difficult to get clerks since the war ended.

Now that conditions are getting more normal we will soon be able to get all the wire required to fence the allotments under the terms of the contract, and inasmuch as we have established this regulation that the lessees may pay the Indians direct under certain conditions and inasmuch as we are able to give Mr. Tidwell additional clerical help at this time, I think that within the next few months we can bring about very greatly improved conditions on that reservation, and every effort will be made to straighten out all these difficulties, get this money to the Indians, and get these allotments fenced in accordance with the terms of the contract.

The CHAIRMAN. Suppose you should determine to change Mr. Tidwell and put in there a new man, do you know of any man to-day who could go in there and take the situation as it is and bring about a satisfactory result sooner than your judgment tells you can be brought about with the conditions as they are and with Mr. Tidwell in the position?

Mr. MERITT. It took Mr. Tidwell over one year to get even a slight acquaintance with the actual conditions on that reservation and a knowledge of the Indians, and if a new man should be transferred to that reservation at this time that new man would have the same difficulties that Mr. Tidwell encountered. We have men in the service who have had experience in handling reservations and who probably are more experienced than Mr. Tidwell, but those men are handling very difficult problems where they are now located. For example, we have recently filled the position of superintendent at

Rosebud by a superintendent from the Tongue River Reservation in Montana, a Mr. Buntin; he is a man of considerable ability and I consider him one of our best superintendents in the Indian country, but he has a problem there at Rosebud that will keep him quite busy for the next year, even to get acquainted with. Mr. Tidwell has a very difficult job there on the Pine Ridge Reservation, and I think if the Indians will be patient for a little while that Mr. Tidwell can work out this problem to their satisfaction. They are getting an income of more than a quarter of million dollars from this leasing that they did not get before, and their principal complaint is that they have not been able to get their money as quickly as they should.

The CHAIRMAN. They have another complaint, that their gardens have been disturbed. What have you to say about that?

Mr. MERITT. It is unfortunate and we regret it very much, but the lessees are not wholly to blame in this matter because it has been absolutely impossible to get wire during the last two years, but we believe that market conditions are getting so now that within a short time we can get this wire from the markets and they are under contract to wire this land.

The CHAIRMAN. In this connection, it has developed that these Indians are incensed against Mr. Tidwell. There is no question about that. They feel he has not handled their affairs the way they should be handled. Would it be possible for the bureau to send up there, in addition to Mr. Tidwell, some real assistance temporarily in order to help him straighten out some of the most serious difficulties that these men have brought to our notice, and straighten them out quickly?

Mr. MERITT. We will do that very thing, and I am glad you spoke of that because it was in my mind to suggest that to the commissioner—that we give Supt. Tidwell every assistance possible to get this money to the Indians as quickly as possible, get all of these leases executed and straighten out this difficulty just as quickly as it can possibly be done.

The CHAIRMAN. I think that if it could be shown within the next 60 days that something was actually being done to eliminate these troubles and to actually close up a whole lot of the real aggravated difficulties which exist there now, it would go a long ways in lifting Mr. Tidwell in their estimation?

Mr. MERITT. I will take the responsibility now of saying that that will be done and I will take the matter up with the view of getting it done immediately.

Mr. HASTINGS. Of course, in a large measure this is an ex parte hearing. I just want to take up four or five minutes of the time of the committee, because I think it is only fair that I should say for the record that I have known Henry Tidwell as intimately as one man can know another; for 20 or 25 years he has lived within 20 miles of my home town; he married there. I knew him before he was married, and his wife is part Indian. He has been in the Government service in one capacity or another for 15 or 20 years, and I never heard the slightest complaint against him. I know he is a man of patience; I know he has every sympathy on earth that a white man could possibly have for the Indian. I do not know how he fits into this situation up on the Pine Ridge Agency, but with

the Five Civilized Tribes, occupying first one position and then another, he finally came to be chief clerk, which is next to superintendent. He filled all of those positions, so far as I know, without a single complaint against him. It may be that these Indians have real grievances. I have deep sympathy for all these Indians, and I think their complaints ought to be heard, but it may not be Tidwell's fault.

Let me be frank in the presence of the representative of the department. I have been making a fight for years and years trying to get more local authority given to the superintendents. You have it now in Oklahoma; you have it by reason of its being given grudgingly, a little here and a little yonder; but let me say to the committee that the same complaints were made by members of the Five Civilized Tribes about people dying and having money in the agent's hands, about people dying and not having money, so that they had to be buried in rough coffins. That complaint is not made there now, so far as I know, because the local authorities there have the right to disburse the money.

Mr. MERITT. The superintendent has that right on the Pine Ridge Reservation.

Mr. HASTINGS. I do not know when it was given up there, but it was given in Oklahoma within the last few years. We finally enacted into law that authority for Oklahoma. But we had all of these complaints which you hear now a few years ago. It might be that Tidwell is at fault; he may not fit into the situation up there; but I wanted to suggest that inasmuch as this committee is going out there and inasmuch as this hearing is ex parte, that we rather suspend judgment until after the committee could go there, and then if Tidwell does not fit into that situation, if it is his fault, no man on this committee will be more ready to press for his removal than myself.

But I know he has been sympathetic with the Indians. I know there has never been a complaint against him, and I am bound to believe that there are certain restrictions thrown around him by the department that embarrass him in the performance of his duties there. I venture to say these leases were made under the direction of the department—is that so, Mr. Meritt?

Mr. MERITT. The department approved the policy to lease the reservation, but the leases are approved by Mr. Tidwell, and they are not required to be submitted to the department for approval. That is also true in regard to the individual Indian moneys; the superintendent has full authority to pay out the money in accordance with the needs of the Indians.

Mr. HASTINGS. How long has that been the case?

Mr. MERITT. Several years.

Mr. HASTINGS. You mentioned a while ago in your remarks that he was authorized to pay this money to the competent Indians. Are some of them incompetent on this reservation?

Mr. MERITT. My statement was not that the superintendent was authorized to pay the money to the competent Indians, but that the lessees were authorized to pay the money direct to the competent Indians.

Mr. HASTINGS. Is the superintendent authorized to pay all of this money to the Indians?

Mr. MERITT. The superintendent has authority to pay this money to the Indians in any amounts that he may deem proper, except for certain purposes. If an incompetent Indian wants to buy an expensive automobile, the superintendent will be required to submit the matter here in order to get authority, but for ordinary purposes the superintendent has authority to pay out this money without coming to the department.

Mr. HASTINGS. How long has he had that authority?

Mr. MERITT. That authority has existed for several years.

Mr. HASTINGS. And has he had that authority with reference to minors?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Do they pay that money to the parents?

Mr. MERITT. No, sir; the policy of the department is to conserve the moneys of the minors wherever possible, and our general policy is to deposit that money to the credit of the minors and not permit the parents to use it for the benefit of the family unless it is absolutely needed.

Mr. HASTINGS. Well, that has to be sent to the department for approval, does it not?

Mr. MERITT. In the case of using money of minors, yes; but the moneys of the adults can be used very freely by the superintendent without coming to the department.

Mr. HASTINGS. Has the superintendent been instructed to make these leases?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. And that is the policy of the department?

Mr. MERITT. Yes, sir. I have stated the trouble here, Mr. Hastings. The trouble is not with the Indian Bureau, but the trouble is with the superintendent's office out there, and it is not the fault of Mr. Tidwell altogether. The trouble is this: The agency office on the Pine Ridge reservation, because of lack of clerical help, has been unable to execute these 6,000 leases and has been unable to make up these accounts and get the money to the Indians. I think the committee will find that is the source of the trouble when they get out on the Pine Ridge reservation. I think Mr. Tidwell will say it is not the fault of the Indian Bureau here and that he is not limited in any way in the performance of those duties, but that it has simply been a physical impossibility to execute these leases and get the money to the Indian allottees.

Mr. RHODES. Would not that indicate that with the vast amount of work that is to be done and with the short force at his disposal there was more work thrust upon him to be done in a short time than he was able to do?

Mr. MERITT. That is true.

Mr. RHODES. Well, what made it necessary for these 6,000 leases to be executed in so short a time?

Mr. MERITT. Because an agreement had been entered into whereby it was proposed to lease these lands on the reservation so that the grass could be utilized, and it was necessary to get the consent of the adult Indians to make these individual leases, because the lands had been allotted.

Mr. GANDY. It was the raise in the price of cattle?

Mr. RHODES. That is quite apparent. But I wanted to know whether the fault was due to a lack of proper force at the Indian agency or whether the Indian agency had been asked to do more work than it was possible to do within a given time. With that responsibility the department must be charged because it must have been known how many clerks there were at the agency; the department must have known how much the appropriation was for that purpose and the department must have known how much land was involved. Therefore, the volume of work was great and the time in which to do it was short, the result being that these complaints are made.

Mr. MERITT. The Indian Bureau is not attempting to shift the responsibility to Mr. Tidwell, but I think Mr. Tidwell himself, when the committee goes on the ground, will confirm the statements I have made here in regard to his troubles and our attempting to cooperate with him in furnishing him additional help. We are very greatly handicapped in the Indian Bureau at this time because of lack of help, but we have sent two of our men—one being an experienced clerk from the industrial section in the Indian office—out to the Pine Ridge Reservation to take charge of this work so as to relieve Mr. Tidwell as much as possible, and we are going to give him every assistance we possibly can.

Mr. RHODES. What use was being made of these lands prior to the time this attempt was made to execute this large number of leases?

Mr. MERITT. Practically no use was being made of them and the grass was going to waste.

Mr. RHODES. And the Indians had been engaged in stock raising on a small scale and in an individual way prior to this time.

Mr. MERITT. Very few of the Indians were raising stock to any extent.

Mr. RHODES. You heard the statement made by this witness awhile ago that in addition to trespass by the cattle upon their private premises there was the additional complaint that their cattle sometimes became lost in the large herds. Do you know anything about how generally that may have occurred?

Mr. MERITT. I think you will find when the investigation is made on the reservation that the Indians on that reservation have not lost a great many cattle.

Mr. RHODES. It occurred to me that that might be a practical source of complaint, because it is very clear to my mind that their cattle might be lost in that way, with a large number of cattle running around the prairies. For instance, a few head of cattle belonging to an individual Indian might have made their way into those large herds and thus become lost and he may never recover that stock.

Mr. MERITT. Some Indians' cattle have been lost in that way and some of the cattle of the lessees have been lost in that way. But we have a stock detective on that reservation whose special business it is to look up this question of lost cattle and help the Indians in every way possible.

The CHAIRMAN. Since it is getting time to close, under our usual scheme, and since, as I see it, the most that this committee can do would be to recommend, after this hearing is all over, and since the

bureau, through its assistant commissioner, has promised to send an emergency fleet up to this Pine Ridge section to correct these difficulties quickly, and since the report is to be printed and can be distributed, not only here but among the Indians themselves, so that they will know exactly what has been said here, including the promise of the bureau, it seems to me that some good must come from this hearing to-day; and the best that any of us can suggest to you is to hope for that result, because that is all that we can possibly do at this time.

Mr. GANDY. There is one other subject that has not been gone into to-day, and of which just brief mention has been made in answer to one question. It is a matter that will be before this committee and one that the committee must face, and if the committee can take time to take it up either to-day or to-morrow, I think it ought to be done. I refer to the fact that there are some 700 unallotted Indians on the Pine Ridge Reservation.

The CHAIRMAN. Is not that rather a matter of legislation?

Mr. GANDY. It will be before this committee in some way or other.

The CHAIRMAN. It seems to me that the time for that matter to come before the committee would be in connection with some bill or resolution. I do not think we could go to work on that without some definite proposition before us.

Mr. MERITT. In that connection, I would like to state that there are about 160,000 acres of unallotted land on the reservation, which is practically valueless, and is known as the bad lands.

Mr. RHODES. Is there any good land unallotted?

Mr. MERITT. There is practically no good land unallotted.

Mr. HERNANDEZ. Some of their lands were ceded, were they not?

Mr. GANDY. They ceded only a small portion, or the portion in one county.

Mr. MERITT. We have a letter that we have written to these Indians and would be glad to incorporate a copy of it in the record.

Mr. RED CLOUD. We would be glad to have this document included in the record.

The CHAIRMAN. What is this document supposed to be? It is entitled, "Proceedings of the council of the Pine Ridge Indians with E. B. Linnen, inspector, on August 20, 1919."

Mr. MERITT. Mr. Linnen was one of our inspectors out there, and he had a council with those Indians. At that time they brought up several complaints, and Mr. Linnen made a report of those complaints.

Mr. RHODES. Will that go into the record?

Mr. HERNANDEZ. I suggest that that be put in the record.

The CHAIRMAN. If there is no objection, it will be inserted in the record at this point.

(The matter referred to is as follows:)

HEARING BEFORE E. B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.
MARCH 31, 1920.

Delegates: James Red Cloud, Pine Ridge, S. Dak.; Calico, Pine Ridge, S. Dak.; Joseph Horn Cloud, Pine Ridge, S. Dak.

Interpreter: James Galligo, Interior, S. Dak.

Mr. MERITT: Who is the first gentleman to be heard?

JAMES GALLIGO: Red Cloud will be heard first. He wants to shake hand with you.

RED CLOUD. I have made agreements with the Government and have laid the way clear. My son done the same as I have done and as the Government told him. Now, it is up to me; I have been selected by the tribe to come here and say what the tribe wants. Here lately we had the World War. You wanted help from the Indians; we wanted to be friends and help one another. If there is any nation to fight you we would help. Wherever you shed blood we are willing to shed blood. Now, out there on the reservation, we have made complaints to you and they have been sent in and brought in, but we have seen no results of it. We have asked consent from our superintendent to come over here before. We asked on the 18th of February, and then it went on until March 20; we asked him again and he said he hadn't sent it in—first he said he had, then he said he hadn't. When we got ready to come we ask him again and he said he was waiting for an answer by wire. Now, if he is telling the truth, we would like to see that—if he has sent it.

MR. MERITT. We will advise you about these matters in a letter we will write to you. I will have the records of the office looked up, and we will let you know—each of you—about these various questions that you raise. Bear in mind that this is a very large office—that we receive hundreds of letters here every day and before we can give you a definite answer to your letter it will be necessary to go through the files and see if these papers and letters you speak of have been received. We will then have a letter prepared for the commissioner's signature, giving you full information about every point that you raise, so that you can have this letter to take back home with you. We find this much better than simply making oral statements, because these oral statements result in misunderstanding sometimes; they are not correctly understood. We are always glad to have these conferences with Indian delegates from the various reservations and are glad to hear what you have to say. We want to do everything that we can to help you. I was on your reservation last summer for a short time, traveling from the Pine Ridge Reservation to the Rosebud Reservation. My time was somewhat limited, and I regretted that I could not have a conference with the various bands of Indians on those two reservations, but it was necessary that I get back to Washington at the earliest possible date.

Now, if you will just take up point by point the questions you wish to raise with the office, we will be glad to hear you and will furnish you with full information.

RED CLOUD. We have heard that some money was to be paid out to those who have their patents in fee. We want to know if it is so.

MR. MERITT. Our usual policy is, when an Indian receives a patent in fee to pay to him his share of the tribal funds, and also pay to him all individual moneys that are held within the jurisdiction of the superintendent.

RED CLOUD. You have been issuing patents, but none of the full-bloods have got any yet. Just the half-breeds and three-quarter Indians have got theirs.

MR. MERITT. It is the policy of the department to issue patents to all competent Indians. It is presumed that adult able-bodied Indians of one-half blood or less are sufficiently competent to handle their own affairs. We are more strict about issuing patents to Indians of more than one-half Indian blood. In such cases competency must be shown before a patent in fee is issued.

RED CLOUD. How about that treaty law for the 25-year trust period?

MR. MERITT. Where the Indians are not competent, the trust period will continue for 25 years. The act of Congress of May 8, 1906—the Burke Act—authorizes the issuance of patents in fee to competent Indians.

RED CLOUD. Was that law passed in 1906?

MR. MERITT. Yes.

RED CLOUD. They didn't have any dealings with the Indians in regard to it?

MR. MERITT. No; Congress passed the law without conferring with the Indians. It applies to all Indians.

RED CLOUD. We don't think it is right for you people to be making rules and laws without any meeting with the Indians in regard to it.

MR. MERITT. It would be very impracticable for Congress to confer with all the Indians of the United States before passing any legislation affecting Indians. There are more than 300,000 Indians in the United States, and they live in 26 different States, on about 200 reservations.

RED CLOUD. And that 25-year trust period, at the end of 25 years from the time—those that are educated would get their patents and them that are not would get 10 more years.

Mr. MERITT. Under existing law, we can extend the trust period for 10 years, at the expiration of the 25-year trust period, for Indians who are not competent. We are doing that on a number of the reservations where the 25-year trust period has expired. On the Pine Ridge Reservation, when the 25-year trust period expires, if there are Indians who are incompetent to handle their own affairs, the Indian Bureau will recommend that the trust period be extended for those Indians.

RED CLOUD. That is what we want. We want the period of 25 years, and then issue them patents if they are competent.

Mr. MERITT. Well, the Indian Bureau will not force any fee patents on full-blood Indians. We will be glad to see that the full-blood Indians are fully protected, and that they are not given fee patents if they are not competent.

RED CLOUD. What they want that for is because they want to tax us before we receive our patents.

Mr. MERITT. The lands held in trust are not taxable.

RED CLOUD. We tell them that, but they still want us to pay. They want to go from house to house—the assessor does.

Mr. MERITT. The local, State, and county authorities can not tax property that is held under trust. But the local authorities can tax property that is not held under trust—for example, if an Indian acquires property by his own efforts, that property will be taxable the same as the property of the white man; but no property, either personal or real, held under trust by the Government for the Indians is subject to taxation by the State authorities.

RED CLOUD. How can they be, when a man has not his patent and still be taxed on personal property?

Mr. MERITT. That is the law, and I have stated the law correctly for your information.

RED CLOUD. That is what we don't want them to do.

Mr. MERITT. We can not prevent the authorities from taxing property that is not held under trust.

THOMAS W. TUTTLE. What he was driving at was the old people who are not voters, and not considered to be citizens of the State, and wards of the Government.

Mr. MERITT. That will not change the matter in the least so far as the property that is not held under trust is concerned. That property will still be taxable.

RED CLOUD. We think there is going to be trouble on our reservation. Some are dying. About the time of the war you wanted us to lease our lands on account of the war, for beef to be used to provide for the soldiers that was at war. At the end of the war that lease ought to be ended. Old and young want more, and old women and children have money in that office and it is held there. We can't get it. Some are hard up for clothing and eatables. Some are starving and some almost naked.

Mr. MERITT. I was on the Pine Ridge Reservation last summer and saw a number of Indians and I did not meet up with the conditions that you speak of.

RED CLOUD. I heard that you was there and I came there and you was already gone. You didn't stay long.

Mr. MERITT. I was on the Pine Ridge Reservation for over a day—spent the night there. We will look into the matter of holding back the individual funds of the Indians. We have made leases on practically all of the reservations for lands that were not being used by the Indians. It is our duty to see that these lands are utilized. We prefer that they be used by Indians, but if not used by them, it is our duty to see that Indians get a return from the lands by leasing them to people who will use them. We will be very glad to have all the lands on the Pine Ridge Reservation utilized by the Indians themselves so that it would not be necessary to lease any of that land to white people. There was a considerable amount of this land lying idle and not being used. Therefore, we leased it to white people.

RED CLOUD. They forced us to lease it. Some of us wanted to use it but they stopped us and the superintendents combined and forced us.

Mr. MERITT. No Indian allottee is forced to lease his land. The law requires that the consent of the Indian be obtained, and no lease of an Indian allottee is valid without consent of the Indian. Of course, where an Indian leases his

land he should live up to his contract the same as the white man. The consent of the Indian is required, though, before the land can be leased.

RED CLOUD. The superintendent there has done it. Some of them didn't know their land was leased.

MR. MERITT. Will you give me the names of those Indians whose land has been leased by the superintendent without their knowledge and consent? We want absolute correct statements about this matter. It is very easy to make charges but we find that a number of these charges are without foundation. We want the plain facts.

RED CLOUD. Inspector Linnen saw when he was there last summer.

MR. MERITT. Can't you furnish the names? You are making the charge now; you ought to be able to furnish the correct names.

RED CLOUD. I haven't them with me, but I have got some of the names in my suitcase.

MR. MERITT. We will be very glad if you will furnish these names to the office. Anything else?

RED CLOUD. There are cases like this—there are some there where they have sick children. They want their individual money to use, and the superintendent won't pay it out, and it runs along till the child is dead.

MR. MERITT. Wherever an Indian needs his individual Indian money for emergencies it is the policy of the office to see that he gets it. Give us the name of an Indian who has died trying to get his Indian money.

RED CLOUD. There is one who died lately—James Long Visitor.

MR. MERITT. Give me the details of the case.

RED CLOUD. He was sickly, and he had requested the superintendent to give him some so that he could buy provisions and clothing, but he was refused.

MR. MERITT. We will take that case up with the superintendent and get a report from him and find out all about it.

RED CLOUD. Runs Jumper is another one—that is, who died lately.

MR. MERITT. We will get the details of these matters from the superintendent.

RED CLOUD. We will have trouble with our gardens from the people who are leasing the lands.

MR. MERITT. Who is the party that has land leased that you are complaining about?

RED CLOUD. I don't know the name; he is a doctor from Choteau, Nebr.

MR. MERITT. How much land have you leased on the reservation?

RED CLOUD. Eighty acres.

MR. MERITT. Grazing or agricultural lease?

RED CLOUD. Grazing. I leased all the land around me.

MR. MERITT. Did you sign the lease on your land?

RED CLOUD. No. The whole reservation has trouble like that. They lease their lands and contract to pay them; then they don't get their money regular. Some hasn't received their pay for six months and some for two years, one year, and some 13 or 14 months.

MR. MERITT. We will investigate that complaint and try to remedy these conditions.

RED CLOUD. The reason they consent to lease is that they can do better by putting in a little garden and get eatables from their own gardens. The whole tribe wants to have that done away with through—this leasing. They were better off before they leased their land. The stock is all dying off and is worse off now than they were before they leased their land. The tribe wants to have all those reserves to be allotted to those that are not allotted.

MR. MERITT. You want the surplus lands on the Pine Ridge Reservation allotted to Indians who have not yet received allotments?

RED CLOUD. Yes.

(Land Division: Please note this request and see me about it.—E. B. M.)

RED CLOUD. There isn't enough land there to allot all those that are unallotted. What are you going to do about those that are going to be left out? Will they get some land or will they get money?

MR. MERITT. If there is not enough land on the reservation to allot each Indian it will require legislation by Congress to pay them money instead of furnishing them land.

RED CLOUD. We want to know the amount of the proceeds of Bennett County sale.

MR. MERITT. We will furnish it to you as soon as we can get the information.

RED CLOUD. The Indians want that right now.

Mr. MERITT. You mean they want to use the money? Do they want it pro-rated among the Indians?

RED CLOUD. Just any way to get it and get some use of it.

Mr. MERITT. We will take pleasure in seeing that you get full information about this from our records.

RED CLOUD. What about the day school? According to the treaty they are not doing it right. They don't have the required number to run that school.

Mr. MERITT. How many are in the day school now?

RED CLOUD. There ought to be at least 10 or 15, and there are not that many. We want them abolished where they don't have enough to run them.

Mr. MERITT. That is going to be done through recent legislation of Congress. All the day schools in the Indian Service with an average attendance of less than eight will be discontinued on the 1st of next July. So your proposition will be taken care of.

RED CLOUD. Another thing: There were some there that was allotted that had no right. It wasn't carried on straight, and Indians that have a right to be allotted were not.

Mr. MERITT. Give me the names of those people who were on the rolls out there who should not be.

RED CLOUD. We want you to send a man out there that will be straight and fair and have a fair investigation.

Mr. MERITT. We can't make an investigation simply on statements of that character. We have got to have something on which to base our investigation. If you will furnish the names of those Indians on the rolls of the Pine Ridge Reservation whom you and the other Indians think should not be on the rolls, we will be glad to have the matter investigated and advise you about it.

RED CLOUD. There is one. Not a drop of Indian blood in him; he was a negro. Alex Baxter is his name. He is dead now.

Mr. MERITT. We are glad to have this information, and it will be looked into.

RED CLOUD. Another was Frank Goings. The whole family—Frank; his mother; Louis, his brother; and sisters, Blanche and Virgie. They are negroes.

Mr. MERITT. How long have they been on the rolls?

RED CLOUD. They have been raised right there.

Mr. MERITT. Were they adopted by the tribe?

CALICO. No.

Mr. MERITT. Were they authorized to be enrolled by any tribal council?

CALICO. No; you don't know anything about them; them fellows have no right to be allotted. There are several others, too.

Mr. MERITT. If you will furnish us the names of all the Indians on the Pine Ridge Reservation who have no right to be allotted, we will investigate it.

CALICO. Livermonts are some more; there are several of them; I don't know how many.

RED CLOUD. The superintendent makes a yearly report, don't he?

Mr. MERITT. Yes.

RED CLOUD. That is what we want to do and want to get the consent from you.

Mr. MERITT. To do what?

RED CLOUD. To make a report from the reservation.

Mr. MERITT. We will be glad to receive a report from the Indians at any time they wish to tell us about conditions on the reservation. You have our consent to make a report to this office at any time.

RED CLOUD. In the treaty that was made to clothe these old Indians as long as they live, but they have been cut off from it and they have made this request.

Mr. MERITT. To what treaty do you refer?

CALICO. The first treaty that was made to Indians by the Sioux. We don't like the tribal council that we have now—these 21 that they have selected they don't like.

Mr. MERITT. Why?

RED CLOUD. They don't look into the tribal affairs. Another thing, we go to our superintendent there and tell him our troubles, but he helps the stockmen instead of us. When the Indians go there to have a talk with him he tells them he hasn't got the time and shuts the door. Lots of Indians are not satisfied with him. They want you to take him back where you got him from.

Mr. MERITT. It is the desire of the Indian Bureau that superintendents should listen patiently to all the complaints of the Indians on the reservations and to remedy any unsatisfactory conditions where it is within their power to do so. Indian delegates come to Washington from all parts of the country, and no Indian delegation has ever come to this office during the last few years who has

not received a courteous hearing and been given careful consideration. An employee under the civil service of the Government, when a charge is made against him, has the right to be given an opportunity to reply. The principles of fair play and justice require that a man shall not be convicted on an ex parte statement; that is, a one-sided statement. That is one of the basic principles of American jurisprudence. We want to hear what the Indians have to say in regard to this matter; we also want to hear what the superintendent has to say in regard to it and then reach our conclusion as to what is the proper thing to do.

RED CLOUD. Did you see the report of that man [Inspector Linnen] who was just in here?

MR. MERITT. Yes. Inspector Linnen's recommendations were not along the lines of your suggestions. Mr. Linnen did not recommend the dismissal of the superintendent of the Pine Ridge Reservation.

RED CLOUD. Here is a letter for you to see.

MR. MERITT. You hand me a letter dated at Pine Ridge, S. Dak., March 21, 1920, addressed to the Commissioner of Indian Affairs, signed by District Council President James H. Red Cloud, Vice President John White Wolf. We will give the request in this letter careful consideration and advise you in a letter what will be done.

RED CLOUD. We would like to have it looked into right now. We can't stay here long. We had a hard time getting here.

MR. MERITT. We will have a reply to your questions prepared by Saturday morning, so that you can take the letter home with you, and you can leave town Saturday night. Does that complete your statement?

RED CLOUD. I would like to see you later.

MR. MERITT. All right.

CALICO. Size me up and see whether I am sickly, healthy, or what condition I am in. What do you think I come here for?

MR. MERITT. You can probably tell me your physical condition better than I can tell you. I judge that you are a man of years—probably 65 or 70 years old. You seem to be in fairly good condition for a man of that age.

CALICO. I want to know about the Black Hills treaty, too.

MR. MERITT. Legislation is now pending before Congress in regard to that matter. There are two bills now pending in Congress on this subject. In our letter to you we will give you full information about these two bills. As soon as these bills are passed and signed by the President the matter will be submitted to the Court of Claims for adjudication. We will cooperate in getting all the facts before the Court of Claims and procuring a decision at the earliest possible date. The Sioux Indians will be given an opportunity, when this legislation is passed by Congress, to submit their claims to the Court of Claims.

CALICO. When that is passed the old Indians, like myself, want to come in for a few things.

MR. MERITT. We will be very glad to give you an opportunity to do that.

CALICO. Before I die I would like to have them come up, so that I could give in my testimony and let these young people of these new generations know that the treaty was made and how it was made.

MR. MERITT. I suggest that you make a statement to the superintendent under oath and have it placed in the files of the agency office so that it will be available whenever this case comes up.

CALICO. I want to know why we did not get no beef for our rations here lately. It has been two or three months since we got beef with our rations.

MR. MERITT. We will take that up with the superintendent and find out the reasons why.

CALICO. We draw only enough rations to last two or three days. It is supposed to last us 28 days, but we don't have anything much.

MR. MERITT. It is the general policy of the Government to gradually reduce the rations issued to Indians so that the Indians themselves will make an effort to earn their own living. The Government desires that all Indians who are able-bodied shall be self-supporting. We find that on a number of the reservations where we issue rations to old people that they share them with other Indians who ought to be making their own living, and as a result of that generosity on the part of these old Indians the rations that are issued to them are soon gone. We issue the rations for the old Indians and not for the able-bodied Indians. However, we will see what we can do about this complaint.

CALICO. You ought to send an inspector out there who would go around among the Indians and see what needs to be done—not just go to the superintendent's office. When an inspector comes there who is a good one we call him a good "lion," but if they send one there who doesn't do what he is supposed to be is just a "common cat."

Mr. MERITT. That last remark you make might be of interest and might also be instructive and helpful to some of our officials and inspectors.

CALICO. Now, these boys who have been in school and get back on the reservation, you agreed to have these boys used at the agency office, but they don't do it—as they agreed to. They hire white boys instead and don't give the Indians a chance.

Mr. MERITT. One-third of the employees in the Indian Service are Indians, and we are giving employment to over 2,000 Indians. Mr. La Flesche here was formerly an employee of the Indian Bureau and by his own request was transferred to another department of the Government. It is the policy of the Indian Bureau to give the Indians employment wherever they are qualified to fill the positions.

CALICO. We helped you during the war, and now we want you to help us.

Mr. MERITT. This country appreciates very much the splendid patriotic spirit shown by the Indians during the late war. There were about 12,000 Indians engaged in that war and they invested between \$25,000,000 and \$30,000,000 in Liberty bonds. The Indians made a very fine record in the war, and we want to show our appreciation in every way. You must bear in mind, though, that the Indians were helping themselves when they helped the Government—they are a part of the Government and were simply performing their duty. However, that does not lessen our appreciation of what they did and we are very proud of the record they made.

Is there any other question you wish to ask?

INTERPRETER. He says he has been selected by the tribe and been sent over here with a small amount of money and he wants to know if you can assist him in any way?

Mr. MERITT. Haven't you enough money to get home on?

CALICO. No, I haven't got much.

Mr. MERITT. Didn't you get round-trip tickets?

CALICO. No.

Mr. MERITT. If you have enough money to get back home on, we will authorize the payment of your hotel bills while here. Is that satisfactory?

INTERPRETER. No; I will be short.

Mr. MERITT. Have you any property?

JAMES GALLIGO. No.

Mr. MERITT. We will furnish you reimbursable transportation and you can pay the superintendent back when you get home. Inasmuch as you are a patent in fee Indian, we will have to require you to reimburse the office for your hotel bills, too.

JAMES GALLIGO. Red Cloud wants to know if you will do the same by him that you are for me?

Mr. MERITT. Does he want reimbursable transportation home?

JAMES GALLIGO. Yes. He says he has come a long way to tell you what he wanted, and now he wants you to do at least one thing he has asked.

Mr. MERITT. Tell him I have given him a long and patient hearing. The stenographer and myself have gone without lunch to give you this hearing—of over three hours. Come back Saturday morning and we will have this ready for you. I am glad to have had this conference with you.

APRIL 5, 1920

JAMES RED CLOUD,

CALICO,

JOSEPH HORN CLOUD,

BEN GALLIGAN,

Pine Ridge Indians.

MY FRIENDS: The purpose of this letter is to answer formally the questions asked by you at the hearing before the assistant commissioner on March 31. You are now advised as follows in regard thereto:

1. *Payment of money to Patent in Fee Indians.*—You say you have heard that some money was to be paid out to Indians who have received their patents in fee. The practice is, when an Indian receives a patent in fee to pay him his share of the tribal funds, and also all individual moneys held

under the control of the superintendent. However, each case of this kind must be handled separately as an individual matter with respect to the particular Indian concerned.

2. *Patents in fee.*—You say that only one-half and three-quarter blood Indians have received their fee patents, and that no patents have thus far been issued to full-blood Indians. The policy of the department is to issue fee patents to mixed-blood Indians of one-half or less Indian blood, who are 21 years of age or over. This, however, does not apply to full-blood Indians, to whom such patents will be issued only upon a satisfactory showing of competency and on the recommendation of the superintendent. In other words, able-bodied adult Indians of one-half blood or less, are deemed sufficiently competent to handle their own affairs to justify the issuance to them of fee patents without any further procedure. However, with respect to Indians of more than one-half Indian blood, as stated above, competency must be demonstrated before a fee patent is issued.

3. *Twenty-five year trust period.*—These patents are issued under the Act of May 8, 1906 (34 Stat. L., 182) and that of June 25, 1910 (36 Stat. L., 855), and unless a fee patent is issued sooner, the land will remain in trust until the expiration of the 25-year period; furthermore, fee patents will not be issued to full-blood Indians on their own allotments except on application of the allottees. Under existing law, the trust period may be extended for 10 years for incompetent Indians. When the 25-year trust period expires at Pine Ridge, if there are then any incompetent allottees, the department will recommend the extension of the trust period for them.

4. *Taxation.*—Property held in trust can not be taxed by the local State and county authorities, who, however, can collect taxes on property that is not held in trust. Property which the Indian has acquired through his own efforts is subject to taxation by the State the same as the property of a white man. No property, either personal or real, held in trust by the Government for the Indians, is subject to taxation by the State authorities.

5. *Leasing conditions.*—You say that the superintendent has arbitrarily leased the allotments of some of the Indians without their knowledge and consent, and furnish the names of a number of such alleged cases. Formerly the grass on the Pine Ridge Reservation went to waste and brought practically no revenue to the Indians; therefore, the policy was adopted of leasing the grazing pastures to outside stockmen. I will look into your complaint on this matter. However, I can say now that no adult Indian allottee is forced to lease his land. If any allotments are included within a tract desired by a prospective lessee, the owners thereof may lease them if desired; however, if they do not wish to do so, the leases provide that the lessee must fence out the lands necessary for the Indians to retain for their crops and gardens; also it was agreed that if the Indian needed all of his allotment for his own stock, the lessee would pay one-half the expense of fencing out the same. In addition, it was agreed that in any case, any Indian who owned stock (not to exceed 50 or 60 head) would be allowed to graze same upon the lands under lease.

6. *Payment of individual funds.*—You say that great difficulty is experienced by some of the Indians in getting their individual funds, in case of sickness, etc., and mention several specific cases. Whenever an Indian needs restricted funds for use in emergencies, the policy is to see that he gets them in conformity with the regulations. The cases of James Long Visitor and Runs Jumper, which you mention, will be looked into.

7. *Delay in receiving lease money.*—You say that there has been great delay in the receipt by the Indians of money for their leases, ranging over a considerable period. The records here show that this delay was caused by the fact that many of the leases expire about the same time, and it requires a great deal of work to prepare the necessary papers, etc. The clerical force at the agency was insufficient to handle this immense quantity of work promptly. However, additional help has now been provided, and I hope that the work will be brought up to date very soon now.

8. *Allotment of surplus lands.*—Reports on file here show that practically all lands suitable for allotment purposes within the present reservation have been allotted. The remaining or surplus area is classified as bad land, devoid of soil or grass, and of no use whatever. Under these conditions it is not considered advisable to allot these lands, even if the Indians desired to receive them as such, as they would be of no benefit to them. Regarding this land, Surveyor Redfield reported in 1915 that—

" * * * I am confident that only about one-tenth of this land, or approximately 20,000 acres, is suitable for allotment. The remainder is worthless bad lands practically devoid of vegetation. In many cases these bad lands extend over entire tracts of from one to two sections or more in a body, and much of it is very broken and precipitous. In many places nearly perpendicular walls from 20 to 200 feet high extend for several miles without a break, so that a large percentage of the bad lands are inaccessible. These bad lands are of no value for allotment or for any other known purpose."

In view of this situation, an effort was made in 1916 and again in 1918 to obtain authority of law to allot the unallotted Indian from the unsold lands in Bennett County (formerly a part of the reservation), which lands were opened to homestead entry in 1912 under the act of May 27, 1910 (36 Stat. L., 440). Our efforts were unsuccessful, however, as Congress took no action in the matter. Since that time nearly all of this land has been disposed of as provided by law. An informal report from the General Land Office shows that approximately 10,000 acres remain undisposed of. As to whether any relief can be extended the unallotted Indians by the payment of money in lieu of land, or through any other method, you are advised that this is a matter that will require legislation by Congress, and it is very doubtful that such legislation could be obtained.

9. *Tribal funds.*—Relative to your inquiry as to the amount of funds available from the sale of land in Bennett County under the act of May 27, 1910 (36 Stat. L., 423), you are informed that the records here show a credit up to and including December 31, 1919, of \$137,847.37, and accrued interest thereon to the same date of \$27,354.48, or a total of \$165,201.85. Under section 7 of the act mentioned this money is subject to appropriation by Congress for the education, support, and civilization of the Indians. In the event that it should be deemed advisable to distribute this money among the Indians, under existing law a final roll would, of course, be required.

10. *Abolishment of day schools.*—You say that you want the day schools abolished when there are not enough pupils to justify their continuance. In this connection you are informed that under recent legislation all day schools in the Indian Service with an average attendance of less than eight pupils will be discontinued on the 1st day of next July.

11. *Wrongful allotments.*—You say that there were a number of allotments made to Indians on the Pine Ridge Reservation who had no right thereto, and mention in this connection the names of Alex Baxter, Frank Goings and family, and the Livermonts, besides which you say there are several more. The specific cases which you mention will be investigated; and if you will furnish this office or the superintendent with the names of the others you say were wrongfully allotted, they will likewise be looked into.

12. *Annual report.*—You say that the Indians want to furnish the office with a yearly report on conditions on the reservation. I will be glad to receive such a report from the Indians not only once a year but whenever they want to send one in, in order that I may keep closely in touch with affairs on the reservation and informed of the conditions generally, as well as the viewpoint and desires of the Indians.

13. *Clothing for old Indians.*—It is the policy, of course, to furnish the old, helpless Indians with both food and clothing. If any Indians entitled to help of this character have been denied it, an effort will be made to remedy the situation.

14. *Tribal council.*—Your complaint that the tribal council does not properly look after the business of the tribe will be investigated.

15. *Complaint against superintendent.*—You say that the superintendent will not listen to the Indians when they go to the office to talk with him. I am informed that there is no basis for this complaint, and that the superintendent gives proper and courteous attention to all Indians who visit the office. Of course, you understand that the superintendent can not personally attend to the wants of every Indian, but it is often necessary that the applicant be turned over to the agency employee who handles the kind of work he wants information about.

16. *Return of round-up money.*—I note the letter of March 21, relative to the return of \$113 unexpended round-up money, which you want paid to the Indians while here. It will require considerable search of the records here to find out the exact situation with respect to this matter; therefore, even if the Indians mentioned are entitled to any refund, it will be impossible to pay them the

money here. The matter will be looked into and the Indians advised later through the superintendent of the action taken.

17. *Black Hills claim.*—In response to your inquiry relative to the Black Hills claim, you are advised that legislation is now pending in Congress which, if enacted into law, will permit the Sioux Indians to take any alleged claims which they may have against the Government into the Court of Claims for final determination. The Senate bill No. 1018 has passed the Senate and has been favorably reported on by the Indian Committee of the House of Representatives and is now on the House Calendar for consideration. A similar bill (H. R. 400) has been passed by the House, was amended and passed by the Senate, and has now been sent back to the House for its agreement with the Senate amendment. I hope that the legislation will become law at an early date.

18. *Alleged shortage of rations.*—You say that there has been no beef issued to the Indians for several months; also that the rations last only two or three days. In this connection I find that the following rations are issued on the 20th of each month:

	Amount.
Bacon-----	pound----- 1
Beans-----	pounds----- 5
Coffee-----	pound----- 1
Flour-----	pounds----- 18
Rice-----	do----- 1½
Sugar-----	do----- 1½

The policy now is to issue rations only to the old, sick, or indigent Indians, who have nobody to look after them. All able-bodied Indians should support themselves through their own efforts. Of course, we will do everything possible for the old and helpless Indians. I find that in many cases Indians receiving rations share them with younger able-bodied ones who should be supporting themselves, and as a result of this misplaced generosity the rations only last a few days. Relative to the alleged failure to issue beef for two or three months, the last available report shows that there was no beef issued on February 20, as the contract prices therefor were in excess of the amount of money available, and it was necessary to readvertise. The superintendent explains that he did not issue bacon in lieu of beef last February, because he did not know whether he would have enough for this purpose. It is also understood that there was no beef issued March 20, but that bacon was issued in lieu thereof.

19. *Employment of Indians.*—You say that the superintendent hires white boys instead of Indians and doesn't give the Indians a chance. It is the policy to employ Indians in all positions which they are competent to fill. I find that at Pine Ridge there are over 70 authorized positions for Indians, which is approximately one-half the total number of employees. You will appreciate, of course, that the proper conduct of the work requires qualified employees, in the interest of the Indians themselves.

20. *Return transportation.*—As you were informed verbally, your hotel bills while here will be paid and we will furnish you return transportation. However, it is customary in such cases to require that the Indian sign reimbursable agreements to repay the money from their individual funds when same accrue to their credit.

21. *Lizzie Nelson individual funds.*—You say that Lizzie Nelson has received a fee patent to her land and that she has about \$2,000 under the control of the superintendent, which he refuses to turn over to her; also that she is ill and needs the money very badly. The superintendent has been instructed by wire to pay this money to Lizzie Nelson, if the facts are as stated.

22. *Leases of Mary Big Hawk, John White Wolf, and others.*—Your complaint that the land of Mary Big Hawk, John White Wolf, and other Indians was leased for only two years without any provision for fencing will be investigated.

23. *Fencing.*—As advised under No. 5, above, the leases provide that the lessee must fence out the land necessary for the Indians to retain for their crops and gardens; it was also provided that if any Indian needed all of his allotment for his own stock the lessee would bear one-half the cost of fencing out of same. Your complaint that the hay, house, and other property of John White Wolf were destroyed by lessee stock will be looked into. A number of complaints have been made about alleged damages caused by trespassing stock. This matter has been investigated, and the report discloses that in some cases the damages were the fault of the allottee. Many of the Indians plant their crops in

the spring and then leave home to visit other Indians in neighboring towns; some one leaves the gate open and the lessee's cattle get in and destroy the crops and hay. Some of the Indians have only one wire in their fence, which will, of course, not stop or turn any stock. There are instances, of course, where the cattle get in and destroy the crops without the fault of the allottee, and in such cases the lessees, as a rule, appear willing to settle on a reasonable and just basis. The district farmer usually appraises the damage and settlement is made on this basis. The report also states that many Indians are exorbitant in their claims. Careful investigation has recently been made of all alleged trespass cases and the report thereof is now under consideration. Every effort will be made to expedite the settlement of all just claims of this nature, so that they may be disposed of without further delay.

24. *Rations.*—The records here show that during the fiscal year ended June 30, 1919, 2,072 Indians on the Pine Ridge Reservation received rations worth approximately \$58,889.

25. *Farming implements.*—Relative to the desire of the Indians for farming implements, you are informed that this matter will be taken up with the superintendent with the view of doing what is possible to help them along this line should funds be available therefor.

26. *Proceeds of sale of beef hides.*—The money derived from the sale of beef hides goes back to the credit of the fund from which the cattle were purchased, and is subject to expenditure under the regulations for the benefit of the Indians, when properly authorized in conformity with law.

Your friend,

CATO SELLS, *Commissioner.*

PROCEEDINGS OF THE COUNCIL OF THE PINE RIDGE INDIANS WITH E. B. LINNEN, INSPECTOR, ON AUGUST 20, 1919.

Proceedings of the council held by the Pine Ridge Indians with Chief Inspector E. B. Linnen August 20, 1919, at the Mission Flat, there being present about 85 adult members of the tribe, including representatives from each of the several districts on the reservation. There was also present Charles L. Ellis, special supervisor; E. L. Rosecrans, stock detective, and others. William Garnett acted as interpreter. Charles Brooks acted as stenographer and took down the proceedings of the council.

MR. LINNEN. My friends, I extend greetings to you all, and I am glad to meet with you again. It has been over two years since I have been on your reservation, and I came back a few days ago at the request of the commissioner to look into certain matters that he requested me to do. We are fortunate to have with us Supervisor Ellis, who has also come here at the direction of the commissioner to do certain work. He needs no introduction, as you all know him very well, as he has acted as your superintendent.

Now, certain of your people have asked for a meeting, and at your request we are here to meet you people, and the only request we have to make is that you talk about matters that pertain to the good and welfare of your people, and anything that we can do to help conditions we will be glad to do. I thank you all. Now, this is your council. I might say that we have brought along Mr. William Garnett to act as interpreter. He is acting for the Government in that capacity and he is known to be honest and truthful, and I imagine he will be agreeable to you all, but if he is not I want you to tell me so. If there is no objection on the part of you people, he will act as your interpreter.

Rising Star makes a motion that William Garnett act as interpreter, and motion is carried.

MR. ELLIS. Just a few words to tell you what my business is here. The commissioner is very anxious that I come back here and finish the work I started a year ago on the Black Hills claim. I just started in that work last year when I had to join Mr. Linnen in Minnesota on very urgent business. Mr. Thomas Flood will assist me, and we intend to go over to Kyle, and we will start Friday for that district. We have sent word out to old men who know personally about this, and we will put down in writing their statements in the form of affidavits regarding this matter. I am glad of the opportunity to come down to your meeting with Mr. Linnen.

Star Comes Out presented a written paper to Linnen with the statement that it contained a list of complaints. The paper was written in the Indian language and it was returned to him to be followed out in the council.

Silas Fills the Pipe offered a prayer, after which the council proceeded.

Four speakers who had been previously selected were announced, being James Red Cloud, Short Bull, Clayton High Wolf, and Bull Bear.

Short Bull, of the White Clay district, spoke first as follows:

"I saw Mr. Linnen two years ago in the Manderson district, and at that time he spoke and advised the Indians to farm, and since that time we have endeavored to follow his advice. We broke and farmed our land as he advised us. However, for the past two years something has taken place which has not benefited the Indians. Our country is full of cattle running on land that is not leased, and that is what we are here to tell you. We have farmers and other officials to look after our affairs, but they are unable to do anything for the reason that the cattlemen are in control. The lessees seem to have everything their own way, and the superintendent is powerless and has no control over the reservation. Now we appeal to this inspector, as that seems to be our only redress. It seems that the majority of the officials at the agency are in agreement with these cattlemen. We have councils and talk over these matters and have told the superintendent, but we find him powerless. There are here to-day many of our people who have suffered under these conditions, and they will tell the inspector."

Clayton High Wolf, of the Porcupine district, spoke next as follows:

"Before I say anything else, I want to state that I have worked for the last 12 years as a missionary. During that time I have observed and noticed the Indians. On the other hand, I have also noticed the agent, the farmers in charge, and such officials as are in charge of the reservation affairs, and I want to say in all truthfulness that there has been a great deal of discontent among the Indians on account of this leasing, and this year especially the feeling among them that they are being abused by the stockmen, and not getting proper protection from the agency officials, has made them more discontented. I now share this same feeling after having suffered under the system of leasing inaugurated on this reservation. There are three things I wish to mention. The lessees have been running their cattle on lands which are not leased, and also on church property. Secondly, they do not like to pay damages; and, third, the Indians do not get their money, and they keep the telephone busy because the lessees do not pay the lease money—sometimes six months overdue. I see these things, and that is why I want to tell my friend the inspector about them. We hope he can remedy same, but if there is no remedy the conditions will grow worse. The conditions are such that young men have stopped farming, and there is a great deal of suffering. I am telling only the truth to my friend."

Lawrence Bull Bear, of the Kyle district, was the next speaker, and he said, in part, as follows:

We have heard that this friend of ours was coming and we have been very anxious to talk to him. We want to tell him things that trouble us, and I want to tell what I know over to Medicine Root district. The superintendent's work does not look just right. I suppose he is the man with power to do what he thinks is right regarding the handling of Indians' money, etc. He says he can lease the land that the Indians refuse to lease; he refuses to pay the children's money that they need for clothing, and for that reason the Indians are suffering. The agent also does not see that agreements between the Indians and the lessees are carried out. Sometimes lease money is not paid for 12 months or longer. I suppose the money is deposited and drawing interest—at least that is what they tell us—but we do not get any of this money. We get only the principal, and no interest. When the agent gets the money he tells the stockmen to turn their stock loose, and they fence the land without a lease and turn their cattle and sheep on the land, and get away with the range.

MR. LINNEN. What land is fenced where the Indians live?

BULL BEAR. Yes, sir. I have the names of some whose lands are fenced in. They are Jef. Otaapela, Wallace Henry, Pawnee Leggins, Daniel Red Eyes, Red Eyes, Elmore Red Eyes, Yellow Wolf, Thomas Blue Bird, Amos Parts His Hair, John Little Soldier, Frog, Peter Chief Eagle, Peter Red Eagle, and others.

MR. LINNEN. None of this land is leased?

BULL BEAR. No, sir.

MR. LINNEN. What creek is this on, and who is the lessee?

BULL BEAR. American Horse Creek, and McKeon is the man.

MR. LINNEN. He is the man that has all this fenced?

BULL BEAR. Yes, sir. He has used this land for at least three months without contract. I do not know whether he is to pay for this or not. He does not care

to pay any damages. The agent tells the Indians to fence up their land; and, of course, having no means to do it with, they give up after all these cattle and sheep are turned loose on them, and they go and lease their land, since they know they have no one to protect them or help them collect damages. I had a meadow, but the stock belonging to McKeon got away with it, and I have no hay. This is not all; there are other people who are suffering, and you will hear about it before this is over.

James Red Cloud, from the Wakpamni district, the next speaker, spoke as follows:

Our friend tells us he would look into things that will be of benefit to us. I want to ask you what we are animals or men?

Mr. LINNEN. You are people, and I believe the majority of you are good people, whom the Indian Office is duty bound to protect.

JAMES RED CLOUD. Well, since we are men, we want you to look into our complaints. Look at the Indians here; they are not sick; they are poor because they have nothing to eat, and are hungry. They make a living by farming and make money. The commissioner has advised us to farm and gave us land to farm. So the young men have been farming and living in the past. But since sheep and cattle have been turned loose on the reservation the crops have been destroyed, and many of the Indians have died without ever getting money for damages. We have a superintendent, farmers, and a stock detective. When we appeal to one of them they refer us to each other, and we don't know where to go for help. Those who don't lease their land have gardens, but they are kept busy chasing cattle day and night. I have a piece of land I have not leased, and although I have only one leg, I am kept busy driving cattle away from my garden, and have a hard time; I do not draw rations. The Indians sign leases with the understanding that the money is to be paid every six months, but they don't get their money every six months. Some wait for a year and starve waiting for their money. We are not Germans, and we do not want to be treated as Germans. The United States was in war, and we Indians sent our boys because the Government asked us to help. Many of our boys have been killed in the war; some have been wounded, crippled, and are not able to work. We have given money to the Government during the war, and now we want some help in return. The officials of this agency do not seem to be able to help us, and I hope you can make a complete change. We appeal to the commissioner through you to change the employees at our agency; that are no good to us. If we get a different class of white people to help us, I believe something can be made out of these people. The Government has made a treaty with the Indians, and in that treaty the Government has promised us that if the employees or any white people staying among the Indians are a detriment, they will be taken away and others sent in their places. There is one more thing I want to tell you: There are people here without anything to eat, and they have money in the office, but the agent does not want to give them any of their money to buy something to eat. They have also made a ruling on the reservation that if the Indians find any carcass they can not touch it, and if any Indian eats one, he will be put in prison for five years. Now, we are telling the truth about our grievances, and I hope you will take them back with you, and we sincerely hope that the Government does something for us.

Silas Fills the Pipe, from the Wounded Knee district, spoke next, as follows:

"My name is Silas Fills the Pipe, but my father's name is Red Dog. I have a paper here which purports to show that I own a tract of land on this reservation [the speaker exhibiting his trust patent], and I always thought that I really owned this land, but since the stockmen have come on this reservation I wondered if the Government did not make a mistake and state on this paper that I was to own this land only until the ranchmen came, when they were to have the use of the land. There is a large blank space left on this paper, and perhaps that is where the names of these big stockmen should have been placed, to show that they owned this land also. I say this because I have found out that the lessees and the farmers can do anything with this land that they please. I live on a piece of this land, and have three quarter sections under fence. One day one of McKeon's men drove a herd of sheep through my fence, and they got into what I had inside the fence. Well, I took a stick and started to chase the sheep out of my fence, and the herder made a dash at me on horseback, with a big stick, and spoke in loud, angry tones. I was on foot, with no means of protection, and seeing such a well-armed man charging me, I made up my mind that my time had come and I was prepared to meet my

God. [Applause and laughter.] Of course, you know I am a preacher myself. Well, I kept on going and did not flinch, and the herder, I guess, changed his mind about dispatching me, and just barely missed running over me, only making a menacing motion over my head with the stick. I made up my mind then and there that these people had taken possession, and I came back to my house and let the sheep go. The herder kept the sheep inside my fence all day and in the evening he drove them off after they had gotten away with all my hay and destroyed my garden. His attitude toward me was that he dared me to protect my own property. Do not think I am the only suffered, just because I happen to be here to tell you this incident. I live on the Cheyenne River, and there are a number of people living there who have undergone similar treatment. As I have already said, I am a preacher, and never tell lies, because if a man lies he is liable to suffer for it in some way. Now, if you can do anything to help us and can remedy the conditions under which we live, we will be thankful to you for the rest of our lives, and we will never forget you. I want my trust patent, which I handed you a minute ago. I was going to let you take it back with you, so you can have the title changed, but I guess I will take it back." [Applause and laughter.]

Fred Twin, from the Eagle Nest Butte, the next speaker, said:

I have been sent from my district to find out what is going on, and anything I know I was to bring it out. There is one thing I like to tell you. They bought implements for the Indians to use in my district. The farmer loaned these to white people and the Indians never get the use of them. When we ask for them the farmer tells us that we don't farm enough to use them, and he even lets white people across the White River outside the reservation take these implements and use them. The second thing I want to say is this: I leased all my land, and so I live on one of my children's land near the school where my children go to school, and I also get hay from this land. I heard that this land was leased, so I went to the farmer and asked him about cutting my hay, and he said, "You better not touch that, because the agent has leased it and you might be arrested." So I have not touched the land, and now I am without hay. We make a living and support ourselves by cutting this hay and selling it, but without our consent the agent has leased these lands and leave us nothing to support ourselves by. We make leases with the stockmen for two years, and instead of fencing the lands in accordance with the terms of the lease they build no fence, and we make complaints to the agent, but nothing is done. These lessees use our land without making improvements. I am going to bring up something else also. Men like Mr. Rosecrans and others are employed by the Government for the benefit of the Indians, but they draw their salary and turn around and go and help the white people. They do not help the Indians.

Mr. ROSECRANS. Has he ever filed any complaint with me and I did not help him?

FRED TWIN. My son sold an I. D. horse without my consent, and I complained to you about it and I wanted to get it back, and you said, "You better not do that or you will get into trouble."

Mr. ROSECRANS. I probably told him that.

FRED TWIN. Another time stock belonging to some lessee broke into my fence and destroyed my crop, and when I complained to you you said if I had only two wires you could not help me. I also want to say that the agent leases our children's land without our consent. When we complain to an inspector about these things the agency employees tell him, "Well, that man has been arrested and has done other things out of the way, and he is sore and is working off his spite," and our complaint is killed off like that every time. I am up against it on the hay proposition.

Mr. LINNEN. Give me the names of the children whose allotments the agent leased without your consent.

FRED TWIN. Victoria Twin, 8 years old, and living.

Mr. LINNEN. The agent did not ask about leasing the land and did you find out that the land is leased?

FRED TWIN. Yes. It is leased to a day-school teacher named Woods.

Mr. LINNEN. Is this inside the school reserve?

FRED TWIN. No, sir. I got this place near the school, where I can live and send my children to school.

White Calf, of the Wakpamni district, next complained that a teacher named J. G. Owen, who owns 9 horses, 6 cows and 8 hogs, is moving fences and taking allotment of Indians, and is now preparing to move the fence over on

his allotment. He also complains that he has leased some land, but has received no pay for 13 months.

Red Feather, of the Wakpamni district, next complains that he leased his land to a man from Alliance, Nebr., for five years. He stated, in part, as follows:

"I was to get my rent money every six months and also 3 per cent if he does not pay on time, but I never get this money. I have not received rations since I was 18 years old, and I want to draw my own rentals on the outside so I can use the money to work with. My daughter is dead, and she has got some allotment benefit money in the office. They took \$200 of it and bought Liberty bonds, and never even ask me; and I want to know who has the authority to do this, without my knowing anything about it. I live out here on the desert and tried to raise a crop, but McKeon's cattle got away with it, so I complained to the farmer, but he did not pay any attention to it."

Mr. LINNEN. What farmer was it?

RED FEATHER. Brigrance. I have my witnesses here. I have been trying to find out about the Liberty bonds in the office, but they open from 11 o'clock in the morning until 12 o'clock and from 1 o'clock until 2 o'clock in the afternoon—only two hours that the office is open to us—and I have not been able to see anybody in the office, because the time is so short. The employees are supposed to work eight hours a day, but I do not like it because they only give us one hour.

Mr. LINNEN. Mr. Ellis here knows about that bond.

Mr. ELLIS. I was here during the second Liberty loan, and I was authorized by the Secretary of the Interior to invest in those bonds from the estates of deceased Indians. That is why this \$200 was taken. John came to me the other day, and I told him that the \$200 was drawing 4 per cent interest—\$4 every six months. The records will show that; and Mr. Tidwell has the bond. I could invest my money at that time and get more interest, but it was our duty to support the Government.

Mr. LINNEN. Are the heirs determined?

RED FEATHER. Yes. My wife and I are heirs, and my wife is living.

Mary Martinez, from the Porcupine district, made the next complaint, as follows:

"I have 1½ sections that is leased, but I have seen no money, although it is used by a man from across White River by the name of Thomas Arnold for the last three years. [Letter from the Indian Office exhibited by the complainant and Mr. Linnen make a note on it.] My second complaint is that McKeon's cattle have destroyed 6 acres of crop—corn and potatoes. I complained to the farmer and went to the agent, but they never paid any attention to it. I have the Porcupine farmer and one policeman to witness this destroying of my crop. My witnesses are Frank White Belly and Mr. Parkhurst. I would like to have this matter straightened up for me."

(Mr. Rosecrans informed Mr. Linnen that he investigated but could not make any headway for the reason that the cattle were never identified. It seems that the cattle belonged to Dick Stirk and also others.)

Manual Martinez, husband of the previous complainant, spoke next. He said in substance that the allotment belonged to his son Philip, and that he has never heard anything from the above complaint of his wife. When Mr. Rosecrans raised the question of fencing, Martinez replied that there was no such law. He further complained that his family owned 960 acres of land from which he had been harvesting hay every year and made \$500 to \$600 a year, but this has all been grazed upon by cattlemen. He said further that when he complained of this to the cattlemen he was told that the agent authorized them or gave them permits to graze on this land, and that was to get only \$32 a section for it, and that it has been 10 months since, and he hasn't seen a cent. Mr. Linnen discussed further with the complainant about an allotment belonging to the deceased mother of Mrs. Martinez, which was patented and sold by the heirs on the outside.

Bear Runs In Woods, from the Porcupine district, spoke next, as follows:

I was told that there was a man coming for the benefit of the Indians and I have been waiting anxiously since, so I can tell him about my grievances. I have many things to say, but time is limited and I am going to make it as short as I can.

A man named McKeon came to me and said he wanted to lease my land, but I told him that I was only an ignorant Indian and I don't want to lease

any land to you. He has turned loose a lot of cattle and I have been chasing cattle day and night; I am blind, as you will notice, and in chasing cattle I fell over the bank and so I made up my mind not to bother myself any more, and so I gave up and leased my land to McKeon. I pulled down my fence and only fenced in my garden, and one morning I found it full of sheep. I had a pile of corn and two loads of oats and the sheep got in and ate it all up. I have a whip in my wagon out there now. I took that whip and chased the herder, a Mexican, up the hill, giving him a good lashing. Finally he begged me to quit and took out his can of tobacco and so we sat down on the hillside and smoked all the rest of the day. Two cows belonging to McKeon got away with the oats, and I reported it to the farmer, but he did not help me at all. I asked McKeon for the trespass fee but he never gives me anything. I bother him all the time for it and about the only time I don't bother him is at night when I have to sleep.

MR. LINNEN. It was McKeon's sheep that did that?

BEAR RUNS IN WOODS. I don't know, but the same brand was on these that were on his other stock.

Stanley Chase in the Morning, of the Wakpamni district, spoke next as follows:

I got a complaint to make about stock that got away with my hay. I put up 30 loads of hay, 20 for myself and 10 for my son, and I put up a good strong corral around it. On November 12, I was taken down with the flu at the herd camp near the agency. While I was sick, some cattle, I do not know how many, broke through the fence and got away with the most of my hay and also my son's. A neighbor living close by tried to chase them away but they came back at night and he could not save my hay. They left about three loads out of my 20 loads, and my son's hay was all eaten up. I reported to Jake White Cow Killer, the assistant farmer, and he said he would report it to McKeon and ask him to pay damages. I have been trying to collect some trespass since, and I have gone to every official I thought could help me, but none have been able to do anything for me. I reported to the agent and he said he was going out to see it himself, but I bothered him so much about it that I believe I am the cause of his taking a vacation now. I worked hard to make this hay, and put up a good fence, but the stock broke it down, and got away with the hay, and I should be paid for the damage.

MR. LINNEN. How much do you value the hay at?

STANLEY CHASE IN THE MORNING. I knew that if I put the value at what it was worth to me, I would never get anything, so I put in a price of \$4 a load.

MR. LINNEN. How many loads?

STANLEY CHASE IN THE MORNING. My son's hay of 10 loads, and my own 17 loads.

Little Iron, of the Wakpamni district, spoke next, as follows:

I got some potatoes from the Government and kept some over through the winter and planted them and also some corn. The cattle got away with it all.

MR. LINNEN. Whose cattle?

LITTLE IRON. McKeon's sheep and cattle. I reported to the farmer, but he could not do anything for me. That is all I depend on and I am going to starve this winter if I don't get anything. I also want to mention another thing. [Here he exhibited newspaper clipping for Mr. Linnen to read.]

MR. LINNEN. This is a newspaper clipping with relation to some Indians who were killed on the Northwestern Railroad about 15 or more years ago.

(Little Iron desired to know what became of some horses belonging to one of those killed on the Northwestern, and Mr. Rosecrans stated that it appeared the widow and a child got away with them, and as they were the heirs and Little Iron had nothing to do with it, there was no claim to be made.)

MR. LINNEN. Where is your land located, and who was this farmer you complained to?

LITTLE IRON. My land is located on what is called Pine Creek, and the farmer is Mr. Brigrance. I leased this land, except 40 acres I was to work, and that is where the damage was done.

MR. LINNEN. Is this 40 acres fenced out?

LITTLE IRON. Yes, sir; with two wires.

MR. LINNEN. Who did that?

LITTLE IRON. McKeon.

Ben Kindle spoke next as follows:

"I am not going to complain about farming, because while I farm myself, I depend entirely on my stock to make my living. I own over 100 head of

stock. A man was after me to lease my land, but I did not want to lease. Finally he induced me to sign a lease with the agreement that I could keep my stock in his fence. Some time after, the stock association, of which Mr. Rosecrans is the head, had a meeting and I was informed that I could keep only 40 head of stock in the fence. The rest I had to take out and put in some other place. When I made the agreement, it was agreed that I could keep my stock in the fence. The Government asks us to raise cattle and furnish us bulls and stallions and some of us have raised stock. I hope that you will help us and make these lessees keep their agreements. I make my living entirely from my stock, but the way things have turned out, I can not get any help. There are many in this house whose lands are being used for two years, and they get no money and now they want to find out whether these stockmen can use these lands without contracts. Their lands are fenced in and they are getting no money from Scott."

MR. LINNEN. Who are these parties within the stock lease and who do not want to lease their lands?

BEN KINDLE. They are Eli Bad Heart Bull, Fannie Bad Heart Bull or Pretty Cloud, and Paul White Magpie and John White Wolf.

MR. LINNEN. How much land did you and your family lease to Scott?

BEN KINDLE. Two and one-fourth sections altogether, inherited and our land together.

MR. LINNEN. How many cattle and how many horses does your family own?

BEN KINDLE. My cattle I keep on land that is not leased, but the horses are in the land leased. I have 103 head of horses and 25 head of cattle owned by my family.

MR. LINNEN. The cattle are outside of the leased land?

BEN KINDLE. Yes, sir.

MR. LINNEN. How much land have you that isn't leased?

BEN KINDLE. One and three-quarter sections that we have not leased, where we keep our cattle.

MR. LINNEN. Now, for the information of you people, I want to make a statement with relation to these grazing leases, what they provide for. To start with, the Government wants all of you to farm, to raise all the crops that you can to support yourselves and your families. I have made that kind of a talk to you before. This is what the Government wants you to do. And that land which you can farm and on which you can raise crops to support yourselves and your families should not be leased. Now, the surplus land that you are not using, that you do not need to farm or use for grazing your own cattle and horses should be leased for grazing purposes. And it was the understanding that those stockmen who were to lease this land were to fence out your farming land—the land where you stay, use, and live. They were to fence that out and they were to fence it with a three-wire fence and steel posts, and this is a part of every lease; these men are required to do that to the lands that are not leased. Any land on which the Indian makes his home and uses for farming purposes and needs for his own use, and does not lease, then the lessee who is leasing the land around there and fences under the terms of his lease, he must fence that tract of Indian land out for the Indian with a three-wire fence and steel posts under the terms of the lease. Now, that is a part of the contract, and if the lessee would perform that contract and fence off these Indian lands that are being farmed, then you would have no complaint to make about your crop being eaten up. And so it is the duty of your superintendent to see that this is done; to see that the contract is carried out. Furthermore, when any cattle break in through the fence and destroy your crop and your hay the lessees are liable for damages and should be made to pay what is right and just.

Now, you speak of not being paid your lease moneys. All the contracts state that this lease money must be paid over every six months for the Indian and it must be paid into the office. And when the money is paid into the office for each Indian that has a lease that money is placed in the bank to the credit of each Indian and it draw interest, and that interest is credited to that money every six months. Now, I want to tell you that in this office here, with all you people and these various allotments, there are about 6,000 leases, and those leases, some of them, have to be renewed every two years and that makes a vast amount of work in the office. There are also about 6,000 different accounts for individual Indian in the office, the money which is in the bank, as I told you. Now, complaint is being made by you people that you are not getting your money and you should have it. The great trouble has been, so I am informed, is the lack of sufficient office help to do the necessary work, drawing checks to pay

you and to fix up these leases. They have not been able to get clerks to do it. You people who are acquainted with the office will know that there is but one clerk there that was there six months ago. They come and go, and there are not sufficient clerks. Some of the clerks are schoolgirls and others none too competent, and they are not able to perform the work necessary to be done. That must be remedied. We must get clerks here to do that work.

Now, we propose to do everything possible to remedy these complaints, in the matter of having these fences built around the Indians' homes and gardens to protect them and in the matter of getting enough clerical force in the office so that they can get their money. Now, these Indians with little farms and gardens do not want to lease and who should not lease, must not be compelled to lease if they don't want to. If they do not want to lease, then the lessees must fence out their places. This is provided where the Indian lives there and makes use of the land. Furthermore, the parents and guardians of the minor children should be the only ones to grant permission for the lease to be made on the minors' land.

With relation to certain complaints that the farmer up at Eagle Nest lets white people use the farm machinery off the reservation so that the Indians do not get to use it, same must not be allowed. These implements are for the benefit of the Indians, and must be used only for that purpose.

Now, with relation to money for Liberty bonds, this has been explained by Mr. Ellis. That was the ruling of the Secretary of the Interior with relation to money belonging to minors.

To the gentleman from Manderson who exhibited a trust patent, I want to say that these papers are your title to those lands that have been allotted to you. These patents are issued to you by the Government showing what lands have been given to each Indian, and those lands belong to the Indian and his heirs, if he should die, and in due time, patent in fee will be issued. And I trust that whenever the patents are issued to you Indians, that you will not be cheated as were the heirs of the mother of Mrs. Martinez who just spoke here a moment ago. That land was sold for \$5,877.36, and the heirs got only \$3,500. Who got the rest of it? That money belonged to the Indians who owned the land and they should have had it. And when I was here over two years ago I found that many of you Indians were defrauded out of your land. So under the new law, which grants patents in fee to those of one-half or less of Indian blood, I want to give you warning now not to be cheated or defrauded out of your land that you get. I understand there will be some seven or eight hundred of you people who will receive their patents in fee. Now, there are seven or eight hundred pieces of land that somebody will be wanting to get away from you, but my advice to you is not to sell it but to keep it. I want to say to you that I hope my visit will accomplish some good for you people in the matter of these leases, and money, and other matters.

Noah Bad Wound: of the Eagle Nest District, the next speaker said:

We came a long ways to hear the news and I want to find out if any land is fit to farm, how can we lease that land to farmers?

Mr. LINNEN. If you do not want to farm it, you may do that.

NOAH BAD WOUND. The reason I ask it because by leasing to farmers, the land is improved, but I do not see any good from these stock leases. Now, we know that if we let this out to farmers the soil will be turned over, and more land will be broken, and our land will be worth more. If we lease for one-half crop share, that is worth more than from stock leases. There is no good from stock leases. Now, the Indians have talked over this matter and they got me to look this up. If 40 acres are broken the stuff raised would bring more money than if we lease out a whole section to stockmen. The next thing is we want the agent to see that agreements in leases be fulfilled before the leases expire. Sometimes, the lessees get long-term leases and they don't make improvements as specified in the leases.

JAMES RED CLOUD. Where lease money is not paid in and is delinquent there is some interest due. If there is any interest coming out of the lease, do we get that interest?

Mr. LINNEN. It is the duty of the office to see that these moneys are paid in to this office. If the lessee fails to pay that money in, that lease can be canceled and there are bondsmen who are to pay for the lease.

JAMES RED CLOUD. I brought that up because we do not know who is to blame for these delinquent payments. We go to the agent and McKeon and they blame each other. There are leases where payments are overdue several months and we never get any interest.

Mr. LINNEN. The interest should be paid.

JAMES RED CLOUD. I have a case in mind where the payment was delinquent six months and when the Indian got the money, there was no interest. The lessees also refuse to fence our land if we want to reserve any of it. I also want to ask about round-up money. We used to collect money from the Indians for the round-up and the agent took it and we don't know what has become of it. There is no more, and we want that money, as it belongs to us. We turned over about \$103. We have a treasurer and he handles the money. His name is Walking Elk.

WALKING ELK. I turned that money over to the farmer.

Mr. LINNEN. What farmer?

WALKING ELK. Jake White Cow Killer.

Mr. LINNEN. Did they ever use any of this money?

WALKING ELK. Yes. They use it for groceries. We turned over \$244.05, but we spent some for grub, which should be deducted from this \$244.05, leaving \$103. I turned this money over to the farmer and have his receipts. [Walking Elk showed receipts and bills to Mr. Linnen, who stated that they contained no information on which to base the exact amount turned over to the farmer.]

JAMES RED CLOUD. There is no more round-up, and since this money was collected among the Indians themselves, and belongs to them, we want it back.

Mr. ROSECRANS. When Mr. Wright, the farmer in charge of Wakpamni district was transferred from this reservation, he turned the round-up funds belonging to the Wakpamni district over to me. I gave a receipt for the same, inclosed a duplicate in the package which contained the money and funds were placed in the safe in the superintendent's office at the agency, and, to the best of my knowledge and belief, were never opened until Mr. Dooley, the auditor for the Indian Office, came here a few weeks ago, when the money was taken up by the superintendent in his official account.

FRED BADGER. I was a policeman for 16 years, and I never want to say anything that is wrong. I was sent here to talk for the Wakpamni district, but I can see that the same subjects have been discussed. I have three things I would like to tell. If those stockmen would live up to their agreement and fulfill their contracts, do as they agree, we will never have any dispute. Another thing is when the Indians try to make leases with other Indians, the same as white men, and want to pay as much as these stockmen, they are not able to get any leases. I want to know why they can not make leases with other Indians.

Mr. LINNEN. If they want to lease like white men, they can do it. There should be no trouble. Indians lease from other Indians on other reservations.

FRED BADGER. I know of two cases; that is why I brought this subject up. My daughter has been trying to lease a piece of land alongside of her own land, and made application for the land, but never heard anything about it. The land is now being used by the stockmen. The land is Scabby Crow's allotment.

Mr. LINNEN. What is your daughter's name?

FRED BADGER. Sallie Badger.

Mr. LINNEN. Did the land adjoin Sallie Badger's land?

FRED BADGER. It adjoins my allotment.

Mr. LINNEN. She made application to lease the land and no attention was paid to it?

FRED BADGER. Yes, sir. She has been trying to lease this land all spring, but could not make any lease.

Mr. LINNEN. Where did she make application?

BADGER. At the farmer's office, and it was sent to the agency office. Mr. Parkhurst is the farmer.

Mr. LINNEN. Is the land leased to somebody else?

BADGER. No; but stock belonging to other people are running on it. Willie Provost tried to lease some land near his land, but he could not get it.

Groceries are awfully high and it takes lots of money to buy grub. Hay is sold for \$6 a ton and, if it can be done, there ought to be a minimum price set, below which no one should be allowed to buy hay, and in that way we can get what our hay is worth and thus keep us in grub.

Mr. LINNEN. Who buys the hay?

BADGER. Traders.

Mr. LINNEN. I will see that the superintendent gets a fair price for your hay.

BADGER. I want to say another thing. Every six months these stockmen are supposed to pay in the lease money. It would be better to pay this money direct to the Indians at the district farmer's office. If that could be done,

we don't need to bother about interest and we would have no kick to make. How about the damages claimed by Indians; are these going to be paid or not?

MR. LINNEN. They should be paid.

BADGER. I hope also that these lessees be made to live up to their contracts. Strong Talk, of the Wakpamni district, spoke as follows:

"I have always lived among the white people, and I always thought they were my friends. Since we moved on this reservation we have had 11 agents, and I have always took careful notice of them. But we have one agent now that is hard to size up. I am 55 years old, and I try to notice everything right. I try to honor and respect all the agents, whenever they come. This summer our agent came back from a trip to Washington, and I went up to him and said, 'How do you do, Father?' and put out my hand to shake his hand, and he knocked my hand away and made some unpleasant remark. He hurt me to my heart. If that agent is going to be here, I wish you would tell him not to do that any more. It would be better to take him out. If he keeps on that way, there is going to be serious trouble some day. The inspector said something to-day that I have stored away in my brain. That is about getting good clerks. There are schoolgirls in the office who do not understand about any work, and I hope he gets something better. I have two orphans, and they got money in the office; but the agent hangs on to their money, and they are hungry. They sold some stock to get this money?"

MR. LINNEN. The stock belonged to these children?

STRONG TALK. Yes, sir.

MR. ROSECRANS. Who keeps the other children?

STRONG TALK. Quick Hawk keeps one and I keep two.

Thomas Flood, assistant farmer of the White Clay District, spoke next, as follows:

"There has been a great deal said about Mr. McKeon's leases. Being an Indian employee of the Government, and being a part Indian myself, it would not do to go away without making some kind of a talk. I want to state the conditions as I know them. What I want to ask the officials here is whether or not any of these lessees have any preference over the others? There is every evidence that there is one lessee that has preference, and that is Mr. McKeon. The Indians observe that, and I observe that myself, as a Government employee having something to do with the signing of these leases—that is, witnessing their marks, etc."

MR. LINNEN. In what way is he given preference, and by whom?

MR. FLOOD. I have met and have also heard a much smaller lessee make the statement that McKeon can do almost what he wants to, and he goes over the head of the officials. Mr. Linehan makes that statement—a much smaller lessee than Mr. McKeon. The Indians come to the farmer to complain; what can the farmers do?

MR. LINNEN. Who is McKeon?

MR. FLOOD. I suppose he is the head of the Newcastle Land & Live Stock Co.

MR. LINNEN. You say he goes over the head of this office?

MR. FLOOD. I guess influence is brought to bear through Members of Congress.

MR. LINNEN. That is what I want to know.

Clarence Three Stars, of Martin, S. Dak., offered a resolution, and said in part, as follows:

"I want to make some statements. I stand on my own grounds. If I were to have charge of these proceedings, I would throw everything out. These individual complaints do not amount to anything. If we have the right kind of administrative affairs at the Pine Ridge Agency now, trouble would not exist to-day.

"*Resolution:* That on this 20th day of August, 1919, by a majority of the leading Sioux Indians of the Pine Ridge Reservation, S. Dak., including Bennett County, representing the Sioux Tribe of said reservation, petition the honorable Commissioner of Indian Affairs, Washington, D. C., to have all troubles remedied by removing or transferring the superintendent, H. M. Tidwell, to another agency—a smaller agency that fits his caliber. (The resolution voted on and adopted by 58 members and 7 opposed.)"

William Randall, of Martin, S. Dak., spoke as follows:

I am going to tell what I came here for. I want to say that the Indian agents are supposed to be for the benefit of the Indian and that is what they are here for. One time a big council was held down on this creek about leasing, and Superintendent Brennan was trying to lease this land for 4 cents

an acre. We could see that he was for the stockmen, and not for the Indians. He showed that, when he tried to lease all the lands for stock leases. This inspector came here, and he said he wanted to find out what is best for the Indians. They lease out these lands for five years, and at the end of that time these leases should be stopped. We lease our land for 15 and 25 cents an acre, and grub is so high that money buys us hardly anything. At the end of the five years the land should be leased for \$1 an acre, and that can not be done; it should not be leased any more. I got things to inquire about, but I have not seen the agent; and I am going there first, and if I fail then I can come to the inspector. But I must consult the agent first. I leased my minor children's land for two years, but I have not seen any money yet. So I got to look into it. That is what brought me here.

Adam Tobacco, of the Wapamni district, spoke as follows:

I haven't got much of anything to say, but I want to talk about Mr. Rosecrans. In 1913 there was a "critter" of mine sold to Corder, and I went to Mr. Rosecrans and said: "My 'critter' has been sold to Corder." He said for me to come some other time, and I went to him three times. Finally I told him: "I am going after that 'critter.'" He said: "Don't do that; if you do that you will be in jail." I went to the judges, and they said: "You better go and see Mr. Rosecrans." The man who sold my stock finally gave me a cow and calf. Another time I left a wagon at the blacksmith's shop, and it was sold and so I went to Rosecrans, and he would not do anything for me.

MR. ROSECRANS. Was that wagon left here so long that it had to be sold?

ADAM TOBACCO. No, sir. It was sold two days after they got through repairing it. Finally a man named Rogers helped me to get my wagon back and \$2 besides. I brought these matters to Mr. Rosecrans, but he never did anything. Mr. Rosecrans must have lots of money now, and you can take him back with you.

JAMES. SIERRO. I want to make a complaint about a steer of mine which was sold September 15, 1918. Of course, at that time I was working in Chadron, and I heard this steer was shipped to Omaha by a man from Rushville, Nebr. He must have bought it from some one from this reservation. There is a man here that knows about that steer. I told Mr. Rosecrans about it. Of course, he said he would look after it, but he didn't do it. (Here Mr. Rosecrans explained that he did look for it, and this brought a response from the complainant, who said: "I told you about it while the animal was still in Rushville, but you didn't do anything right away.")

MR. LINNEN. Did you ever get any pay for it?

SIERRO. No, sir. My brand was vented, Box L brand on it.

MR. ROSECRANS. Probably it was sold by some member of this boy's family to Herbert Bissonette.

MR. LINNEN. Did you ever find out if any members of your family had sold it?

SIERRO. No, sir.

MR. LINNEN. Did you inquire?

SIERRO. No, sir.

MR. LINNEN. They said they didn't?

SIERRO. No, sir. Sold by some one else.

MR. LINNEN. Was that the only one you lost?

SIERRO. I lost three steers.

MR. LINNEN. When?

SIERRO. One lost latter part of May, 1912, and two in 1917.

MR. ROSECRANS. How old are you?

SIERRO. Twenty-three years old.

MR. ROSECRANS. Who was acting as the head of your family at that time?

SIERRO. Narcise Pretty Face.

MR. ROSECRANS. What is your brand?

SIERRO. J A S connected. [After a long pause.] I just want to know if I am going to get something out of this.

MR. LINNEN. There has been no trace of it so far. If it is possible to locate it, of course you can get something out of this. It seems to have disappeared completely.

(Mr. Rosecrans here explained that there were several shipments, among which was the Modisette outfit, and that returns from Omaha failed to show that this steer was received in any of these shipments.)

SIERRO. Last June 25, 1919, I went to the office and ask for my check. It was \$3, and of course I went in and ask for my wife's check. Well, they gave me

our checks; then I ask for my wife's little sister's check. They told me it belonged to her. [Sierro went on and explained that he had difficulty about getting the check and that finally it was given to him, and he was ordered out of the office.] He went on further and said, "Mr. Tidwell told me to walk out, and I did. Mr. Brigrance, the farmer, grabbed me and gave me a push. I did not think he had any business to do that. Of course, I knew he isn't doing right and I struck him. They finally had policemen arrest me and gave me two days, but I was there only one and one-half days. I want to know if the employees have any right to do this or tell the policemen to do it.

MR. LINNEN. Well, there are two things: People going in the office to transact business should be courteous and treat the employees in a respectful manner, and, on the other hand, the employees should also be courteous and look after their wants. There should be no difficulty at all. If there is any, it should be the policemen to handle the person who needs it.

SIERRO. I went in there like a man, but when he bollered at me. I was worked up.

MR. LINNEN. Who was it?

SIERRO. Mr. Tidwell's son.

MR. LINNEN. In June?

SIERRO. June 25, 1919.

MR. LINNEN. Well, we will see about it. During June Mr. Tidwell's son was out working and was not in the office. That is what the records show. Is that all?

SIERRO. Yes, sir.

Paul White Magpie spoke next as follows:

When I went to some of the lessees about their cattle grazing on my land they told me they deposited the money in the office as trespass. That was when the cattle were first turned loose on this reservation, and the land was being used without our consent. We have never seen a cent of this money yet. How I come to know this I inquired about this money at the office after I heard this and I received \$48, but the other Indians probably don't know, and so never get anything. If those cattlemen are correct, I hope the inspector will look into it and find out where that money is, etc. I don't understand this matter. If only certain Indians are to receive this trespass money, we want to know.

William Red Hair, of the Wakpamni District, next speaker, said:

I lost a steer four years ago and went to Mr. Rosecrans, who said: "It is probably eaten up by somebody," and he never tried to look it up.

MR. ROSECRANS. This steer naturally strayed away, and was never found.

RED HAIR. I came prepared to give the necessary information as to brand, etc., so he could look it up for me, but since he answered in that way I just let the matter drop. I have since lost other stock, but I never bother him about it, because he headed me off in that way that time. Mr. Rosecrans has been here for some time, and if he is doing anything keep him on, and if not, he should not be. He treated everybody the same way, so that is why there is no stock any more. He doesn't pay any attention. I want to know if he is doing right.

MR. ROSECRANS. There are lots of stuff I have never found and I have always tried to look into every complaint. Lots of cattle go astray and no one knows what becomes of them.

Ben Sierro complained next as follows:

I want to complain about the employees. If they don't do the work they should be removed and others placed here who can. There is lots of talk, but that is nothing. The only thing to do is to remove them and put the right kind of people here.

Thomas Fast Wolfe, of the Eagle Nest district, spoke as follows:

James Garner has been using my mother's and brother's allotments, both deceased. I never received any money for the use of this land. Garner wanted to have this lease, and so I told him I would not sign until he had paid for using the land before. Last spring he told me that the agent was going to sign the lease and I got only \$7. My mother's land was advertised for sale at \$1,550 and there was a bid for \$1,553.30. I would not sign the acceptance, and Frank Pomeroy told me that the agent would sign anyway. I do not understand this. I have a man who wants to give me \$2,000, but when I told them about it they told me I could not sell it that way, and they tried to get me to sign for the \$1,553.30 instead. Mr. Welsh wanted to lease that land for 25 cents per acre, but it was leased instead to Jim Garner for 15 cents an acre. I have minor brothers for whom I am making this complaint. We also

had one-half mile of fence with three wires. Jim Garner took that wire and fenced another Indian's allotment with it. I reported this to the farmer and Garner said he never did it. On my brother's land there were some house logs and posts, and Jim Garner also took them away. I have witnesses, but nothing was ever done. The farmer never does anything. I reported to the agent, and he said, "You write to the office." Now, I don't know what he means, but probably the Indian Office. I am trying to help my minor brothers, but can not get anybody to help me in this difficulty.

John R. F. Scout filed a written complaint that on October 16, 1918, cattle belonging to McKeon got away with 15 loads of alfalfa, which he values at \$15 a load, and he desires to be paid. The cattle were branded and were 38 head in number. On November 11, 1918, he went to Mr. Glover, who instructed him to secure two witnesses and present the claim with the indorsement of the farmer. The farmer was never home and was finally discharged, and so he has never filed his claim.

I, Charles Brooks, hereby certify that I acted as stenographer at the council meeting held August 20, 1919; that I took the proceedings of said council down in shorthand and afterwards reduced the same to typewriting, and that the above and foregoing 20 typewritten pages are a true and correct representation of what transpired at said council meeting.

CHARLES BROOKS, *Stenographer*.

Correct attest:

E. B. LINNEN, *Chief Inspector*.

The CHAIRMAN. We would like to have a copy of the lease in the record.

Mr. MERITT. I have some forms of leases here.

The CHAIRMAN. Are the leases uniform?

Mr. MERITT. No, sir.

The CHAIRMAN. They are peculiar to each situation?

Mr. MERITT. They are peculiar to each allotment. I will put into the record two or three of the leases, if agreeable.

Mr. KELLY. Can you give an answer to the question as to the time limit?

Mr. MERITT. I will read this extract from one of the leases:

The lessee further covenants and agrees that he will, at his own expense, within six months from the date of the approval hereof, build, construct, and erect the following improvements upon the above-described land: A fence, using three No. 12 gauge galvanized barbed wires or four No. 12 gauge black wires, with standard high-carbon flexible-angle steel posts, 6 feet long, weighing not less than 7 pounds, galvanized or finished with battleship gray mineral paint, put on by the manufacturer, to be set not to exceed 21 feet apart and not less than 18 inches in the ground, said posts to have underground anchorages, placed along the north boundary of this tract.

Mr. KELLY. As I understand it, that time limit is three months, and they have gone for two years without building any fences. It seems to me that that is cause for voiding the leases.

Mr. MERITT. I will read to you another provision:

It is also understood and agreed that any permanent and established road crossing this allotment shall remain open for all traffic. In the event a fence shall cross such road the lessee shall be required to place a self-opening gate and an auto runway in the fence, or shall cause the road to be fenced on both sides. All fences being built on section lines must be set in from such lines a distance of 33 feet. Further, the lessee agrees that the number of cattle and horses to be grazed shall be limited to 15 acres to the head and that an excess of 10 per cent over and above such number for a period of 30 days at any one time shall ipso facto work a forfeiture of the lease. It is also expressly agreed that the lessee, or by competent foreman, shall execute and deliver to the superintendent of the Pine Ridge Agency, S. Dak., whenever requested, an affidavit setting forth the number of live stock being grazed.

Mr. HERNANDEZ. I thought I heard something said about the close grazing on these lands, or that they had more stock on the reservation than they should have.

Mr. RED CLOUD. Yes, sir; they do.

Mr. HERNANDEZ. They have eaten the grass so that it is as bare as this table?

Mr. RED CLOUD. It is almost like this table. The stock is starving so that they break into our little hayfields.

Mr. RHODES. Mr. Meritt, do you practically concede that there has been a failure on the part of the lessees to comply with the terms of the contracts, and do you attribute as the reason for the failure on the part of the lessees to comply with the terms of the contracts conditions that have arisen over which the lessees have no control? Is that your position?

Mr. MERITT. It has been physically impossible to get wire during the last two years.

Mr. RHODES. Under the civil law governing contracts, the lessee would be required to fulfill the terms of the contract, unless conditions arose over which he had no control—that is, in case of famine, pestilence, war, floods, and things of that sort?

Mr. KELLY. And which could not be foreseen at the time of making the contract.

Mr. RHODES. I want to know whether Mr. Meritt concedes that there has been failure on the part of the lessees to fulfill the terms of the contracts and whether, as a reason for such failure, he claims that the lessees were unable to comply with the terms of their contracts because of conditions which arose over which they had no control?

Mr. MERITT. We admit that all of the terms of the contracts have not been fulfilled in all cases. It was because of war conditions that those terms were not complied with.

Mr. RHODES. As a legal proposition, do you believe that those failures were of such a character as to make it possible on the part of the Government, as the agent of the Indians, to void those leases?

Mr. MERITT. I would want to study the terms of the contracts very carefully before passing on that question from the legal standpoint; but I believe as an administrative official of the Government that we should take into consideration the conditions which have obtained in the last two years before canceling the contracts because of the failure to fence allotments.

Mr. RHODES. The courts would have to consider that.

Mr. GANDY. The three months' limitation has not run out on these leases. I looked at the leases, and the leases were approved in March, 1920, so that the three months' period has not yet run out.

Mr. KELLY. But these leases were signed during the war, as I understand it. I understand they claim that they did not fence the allotments because of the scarcity of wire under the war conditions.

Mr. GANDY. You evidently did not understand what I said. They were approved in March, 1920.

Mr. KELLY. Do you mean to say that they did not know of the scarcity of barbed wire?

Mr. GANDY. The three months' limitation has not run out yet.

Mr. RHODES. It was a lease, so far as binding the lessee was concerned, and it was a lease so far as the Indians were concerned, when the stock of the lessees began grazing upon the property.

The CHAIRMAN. The statement has been made here that they had cattle on the land before the leases were made out. The Indian Bureau has admitted that.

Mr. MERITT. We admit that fact; and we collected rent for those allotments as trespass fees rather than under the written leases, because the leases had not actually been made out.

The CHAIRMAN. Were any leases carried out by the lessees, or were any of the allotments fenced within the three months' period, that you know of?

Mr. MERITT. I think some of the leases have been fenced. We got some wire to the reservation, and some of the leases have been fenced, but all of the leases have not been fenced.

The CHAIRMAN. I will ask this question of the witness: How many of those leases have been fenced that you know of?

Mr. RED CLOUD. They made one big pasture, but there were no fences built inside.

The CHAIRMAN. They did fence in that one big pasture?

Mr. RED CLOUD. Yes, sir; but not within the limit of time that they said.

The CHAIRMAN. How long did it take them from the time they commenced to build the fence to complete it?

Mr. RED CLOUD. They started the fence in 1918, and it took them more than the time they said it would take.

The CHAIRMAN. They said it would take three months?

Mr. RED CLOUD. This one he has referred to, the McKinnon lease, was to be done in six months.

The CHAIRMAN. He had six months in which to build the fence?

Mr. RED CLOUD. Yes, sir.

The CHAIRMAN. Did he start promptly to work building the fence after the lease was made?

Mr. RED CLOUD. He turned his cattle loose in there before he started the fence.

The CHAIRMAN. Did he start promptly to work to build the fence after the lease was made?

Mr. RED CLOUD. No, sir.

The CHAIRMAN. After he started to build the fence, did he keep at it until it was completed?

Mr. RED CLOUD. No, sir.

The CHAIRMAN. He built a little, and then stopped?

Mr. RED CLOUD. Yes, sir.

The CHAIRMAN. Do you know whether that was because he could not get wire or was it from some other cause?

Mr. RED CLOUD. He had enough wire to do his fencing, but he did not want to pay much for labor.

The CHAIRMAN. Can you tell us whether it would be better for Mr. McKinnon to have the land fenced, or would it be better for him to leave it as it is, without a fence?

Mr. RED CLOUD. Without the fence, he did a lot of damage. Inside of that pasture there are a good many Indians that did not want to lease, and they ran over them with their stock.

The CHAIRMAN. I was speaking more particularly about Mr. McKinnon. It seems to me that Mr. McKinnon would be better off to have the land fenced than if he left it without a fence. It seems to me that he could handle his cattle better.

Mr. RED CLOUD. They would not be any better off. The Indians inside of that pasture wanted to make a living, and they were run over by the stock.

Mr. MERITT. I would like to put in the record a statement covering the issuance of patents in fee on that reservation. We have issued about 1,500 patents in fee on that reservation, covering about 250,000 acres of land, that land being no longer under the jurisdiction of the department.

Mr. KELLY. How many incompetent Indians are there on the reservation?

Mr. MERITT. There are 3,924 adult Indians on the Pine Ridge Reservation and 3,294 minors, and I should judge that probably 20 per cent of those adults might come within the competent class.

Mr. RHODES. Do these Indians have any income besides this money received from leases?

Mr. MERITT. Practically all the reservation has been allotted, and the only income they have is from leasing and what they raise on their allotments. A large number of Indians have small gardens, and we do not permit the lessees to lease any of the lands that are utilized for gardens. I am glad you ask that question. They have incomes from their own efforts besides the income that they get from the leases.

Mr. KELLEY. Is this first witness, Mr. Horn Cloud, classed as competent or incompetent?

Mr. MERITT. I consider him competent, and this man here [Mr. Red Cloud] I would consider competent.

The CHAIRMAN. Have these men received their patents in fee?

Mr. GALLIGO. Yes, sir.

Mr. MERITT. This man over here [indicating] we would consider incompetent because he is an old man and can not speak the English language. It is the duty of the Government to protect Indians of that class. We will issue a patent in fee to this Indian, Red Cloud [indicating], if he will make application, and give it to him very soon.

Mr. RHODES. Why have you not had a patent in fee before now?

Mr. RED CLOUD. I did not want it.

Mr. KELLY. Why?

Mr. RED CLOUD. I would like for the Government to make over that some time. I want that to run for a period of 25 years. If we are competent at the end of that time, we will get it.

Mr. HERNANDEZ. Did you sign some leases yourself?

Mr. RED CLOUD. I signed when they paid in advance.

The CHAIRMAN. You did not sign a lease?

Mr. RED CLOUD. No, sir; I did not lease.

The CHAIRMAN. You would not lease unless you had your money in advance?

Mr. RED CLOUD. No, sir.

The CHAIRMAN. I think he is entitled to his citizenship papers.

Mr. RED CLOUD. I want my pay in advance so that I will not have any further bother. Some of these are classed as competent. Where are they competent?

Mr. MERITT. In addition to the agency activities on the reservation we are maintaining 25 day schools, one large boarding school, and there are also mission schools on the reservation where the Indians are being educated.

The CHAIRMAN. Is there anything further?

Mr. HASTINGS. I want to ask if there is a uniform rule as to the number of cattle allowed per acre of leased land?

Mr. MERITT. The rule is 15 acres to the cow.

Mr. RED CLOUD. There is one thing I want to say in regard to the superintendent's boy. He never did any work, but he was paid \$48.

The CHAIRMAN. For what?

Mr. RED CLOUD. There was a man employed there as a mechanic, and he said he was asked to sign up Mr. Tidwell's son for 16 days at \$3 per day, or for \$48. This man refused to do it because it was not straight. He is out of the service now because he was trying to keep straight in the service.

Mr. MERITT. What is the name of the mechanic?

Mr. RED CLOUD. Lon De Armond. Those inspectors that have been out there have been told about it.

Mr. MERITT. I was on the reservation for a short time last summer. I visited the agency, the boarding school, and the mission school. I rode from the Pine Ridge Agency to the Rosebud Agency, over 100 miles, and I saw a great deal of new fencing on this reservation. When the committee visits that reservation, I suggest that you go from the Pine Ridge Reservation to the Rosebud Reservation by automobile, passing through the two reservations.

The CHAIRMAN. We thank the delegation from the Pine Ridge Reservation for appearing here and making their statement, and we will do the best we can to attempt to straighten out their difficulties as quickly as possible.

(Thereupon the committee adjourned.)

INDIAN TRIBES OF CALIFORNIA

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

SECOND SESSION

MARCH 23, 1920

COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

HOMER P. SNYDER, New York, *Chairman*.

PHILIP P. CAMPBELL, Kansas.
ROYAL C. JOHNSON, South Dakota.
JOHN A. ELSTON, California.
FREDERICK W. DALLINGER, Massachusetts.
BENIGNO C. HERNANDEZ, New Mexico.
MARION E. RHODES, Missouri.
JAMES H. SINCLAIR, North Dakota.
CLIFFORD E. RANDALL, Wisconsin.
ALBERT W. JEFFERIS, Nebraska.
R. CLINT COLE, Ohio.

JOHN REBER, Pennsylvania.
M. CLYDE KELLY, Pennsylvania.
CHARLES D. CARTER, Oklahoma.
CARL HAYDEN, Arizona.
WILLIAM J. SEARS, Florida.
JOHN N. TILLMAN, Arkansas.
HARRY L. GANDY, South Dakota.
WILLIAM W. HASTINGS, Oklahoma.
ZEBULON WEAVER, North Carolina.
RICHARD F. MCKINIRY, New York.



WASHINGTON
GOVERNMENT PRINTING OFFICE

1921

INDIAN TRIBES OF CALIFORNIA.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 23, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. We will proceed with the hearing, gentlemen, on H. R. 12788. Mr. Raker, the introducer of the bill is here, and we will be glad to hear him, particularly with regard to the nature of the claims that it is desired to present in the bill.

STATEMENT OF HON. JOHN E. RAKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. RAKER. Mr. Chairman, I would like to have the bill inserted in the record—printed as part of the record—and I ask also that the report of the Secretary of the Interior on the bill be inserted. It is short and to the point. It is favorable, and without reading it I ask that it go into the record.

The CHAIRMAN. I prefer to have you read it, and without objection the bill and the report will go into the record.

(The papers referred to follow:)

A BILL Authorizing any tribes or bands of Indians of California to submit claims to the Court of Claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all claims of whatsoever nature which any tribes or bands of Indians of California may have against the United States may be submitted to the Court of Claims for determination of the amount, if any, due said tribes or bands from the United States for lands formerly occupied and claimed by them in the said State, which lands are alleged to have been taken from them without compensation; and jurisdiction is hereby conferred on the Court of Claims, with the right of either party to appeal to the Supreme Court of the United States, to hear and determine all legal and equitable claims, if any, of said tribes or bands, against the United States, and to enter judgment thereon.

SEC. 2. That if any claim or claims be submitted to said court, they shall settle the rights therein, both legal and equitable, of each and all the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as an offset in such suits or actions, and the United States shall be allowed credit for all sums heretofore paid or expended for the benefit of said tribes or any band thereof. The claim or claims of the said tribe or any band thereof may be presented separately or jointly by petition, subject, however, to amendment, suit to be filed within five years after the passage of this act; and such action shall make the petitioner or petitioners party plaintiff or plaintiffs and the United States shall be the party defendant, and any band or bands of said tribes the court may deem necessary to a final determination of such suit or suits may be joined therein as the court may order. Such petition, which shall be verified by the attorney

or attorneys employed by the aforesaid tribes or bands of Indians of California, shall set forth all the facts on which the claims for recovery are based, and said petition shall be signed by the attorney or attorneys employed, and no other verification shall be necessary; official letters, papers, documents, and public records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said tribes or bands thereof to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys for said tribes or bands of Indians.

SEC. 3. That upon the final determination of such suit, cause, or action, the Court of Claims shall decree such fees as it shall find reasonable to be paid the attorney or attorneys employed therein by said tribes, subject to approval by the Secretary of the Interior and the Commissioner of Indian Affairs and under contracts negotiated and approved as provided by existing law, and in no case shall the fees decreed by said court be more than 10 per centum of the amount of the judgment recovered by such cause, such fee to be paid from said judgment.

DEPARTMENT OF THE INTERIOR,
Washington, March 9, 1920.

MY DEAR MR. SNYDER: I am in receipt of your letter of February 28, 1920, referring for report a copy of H. R. 12788, authorizing any tribes or bands of Indians of California to submit claims to the Court of Claims.

The claims of these bands or tribes of Indians, as shown by the bill, is for compensation from the Government for lands formerly occupied and claimed by them in California, which lands are alleged to have been taken from them without payment and disposed of as public domain.

As these Indians believe they have a meritorious claim against the United States, and the said bill properly protects their interests and the interests of the Government as well, I recommend that it receive your favorable consideration.

Cordially, yours,

ALEXANDER T. VOGELSANG,
Acting Secretary.

HON. HOMER P. SNYDER,
Chairman Committee on Indian Affairs, House of Representatives.

MR. RAKER. Mr. Chairman, the assistant commissioner, Mr. Meritt, is also present, and before we get through with the hearing I would like to have you hear Mr. Meritt and also Dr. Wooster, of the department. I want to say, also, so that the committee may understand the situation fully, that we had the fullest cooperation and assistance—in fact the real preparation of this bill has been by the department, for the purpose of drawing a proper bill, so that it would not take the extra time of the committee in going over its form, as well as to harmonize the general legislation, and, as the report says, to protect the Indians and also the Government, so that the matter, if favorably acted upon by Congress, might be in such position that full, fair, and equitable trial might be had for the adjustment of these alleged rights.

This is rather an extensive question in a way, Mr. Chairman, and I am just a little bit hesitant as to the method—although I have it all arranged in my mind—of presenting it to the committee. To my mind there seems to be but one point in the matter before the committee, and that is to present to them a *prima facie* case that will justify the passage of the act by the House, and then as to the many ramifications, and the real legal question involved up to the Court of Claims for their determination.

At this juncture I desire to say that some of these Indians have had some little provision, and it might trickle along for many years. It is sort of revolving, rotating, but this bill authorizes the deduction of

any benefits they have received, and then authorizes the court, of course, to adjudicate their rights, and deduct any benefits they have received, so that whatever small amount has been authorized may be deducted.

The CHAIRMAN. Mr. Raker, I would like to know something about the magnitude of these bands, as to their numbers and names, and so forth.

Mr RAKER. I will get to that directly, Mr. Chairman. The Indian population in California to-day is stationary. There are about 20,000 in all, distributed throughout, say, 50 counties of the 58 of the State, and they are found in approximately 300 different bands or groups. I think that is a moderate estimate at that time. These bands are in the order of small villages and range in number from 15 to 600 persons. About 5,000 of these Indians are on small, inadequate, and undesirable reservations. The other 15,000 are known as nonreservation Indians.

The Indians of California up until now have been signally and pitifully overlooked, and left very largely to the mercy of the merciless elements. Now, the white settlers and the gold seekers, speaking with every respect to them, but they were ambitious and strong men, and when they found this wonderful territory up there they proceeded to take possession—not only proceeded to take possession, but kept possession.

While the Indians of other States have received millions of dollars for precisely the same rights in land not nearly so valuable, the only Indians in California who have received any considerable consideration whatsoever are those who have either been literally starving to death or those who have gone on the warpath, such as the Modoc Indians, who were compensated for their hostilities to the Government by removal to Oklahoma, where they were given reservations and educational opportunities. Right there I might interpolate it pays sometimes to fight. These same Indians were later given the privilege of returning to the Klamath Indian Agency in Oregon to share in the benefits of that reservation.

Under the Spanish and Mexican laws, which controlled prior to the cession of the territory to the United States, the Indians' right to occupancy was expressly recognized—that is in the old régime before the United States Government took over those territories. So far as these California Indians are concerned, our guaranty in the Treaty of Guadalupe Hidalgo which reserved for them their rights, in the land, and so forth, has proven to be a worthless scrap of paper.

The special agent of the Department of the Interior in his report of March 20, 1906, concerning this matter, said:

The treaty of Guadalupe Hidalgo, ceding California to the United States, guaranteed Mexican land titles in the ceded territory as they stood at the time of transfer. Under the Spanish and Mexican law the Indians had certain rights to the land they occupied and could not be legally evicted from it. The act of Congress (of Mar. 3, 1851) which provided for the settlement of titles to Spanish and Mexican grants imposed upon the commission appointed to make the settlement, the duty of first setting apart for Indian use all lands occupied by them. It may, therefore, be assumed that Congress considered that the Indians had substantial rights. It was a duty of the commission to investigate and confirm the Indian's title wherever Indians occupied lands included within the limits of Spanish and Mexican grants. Your special agent has found but two cases out of several hundred grants where this was done, Pauna and Santa

Ynez, and in the latter case the terms of settlement were so uncertain that action is now pending in the State courts in regard to it. The new owners of the Spanish grants had to rely upon the Spanish law to substantiate the validity of their titles, but were prompt to appeal to the American law to evict the Indians, something they could not legally do under the terms of their grants.

Now, Mr. Chairman, I will insert in the record, and will read that particular part of it here:

Be it further enacted, that it shall be the duty of the commissioners herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held, and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians.

I will say right here that while that commission was appointed to ascertain the rights of these Indians to land in California, it was practically all disposed of by the early and eager claimants of grants, as well as the early miners and early settlers that desired the land.

In this connection I am going to ask that there be inserted here 18 treaties that were entered into by the Indians, by these various bands and tribes of Indians, and the commissioner appointed by the Government with full authority to act, and when they came before the Senate they were simply refused approval.

The CHAIRMAN. Now since we have this printed compilation of those treaties, which I hold in my hand here, what is the use of printing them again? Why not refer right here to this document?

Mr. RAKER. I will defer that to the chairman, but will say this, that they are almost as scarce as hen's teeth, and I imagine the only ones to be had are those in the possession of the department. How is that, Mr. Meritt, aren't they very scarce?

Mr. MERITT. Yes; they are very scarce.

Mr. HERNANDEZ. I think we had better have it in the hearing, Mr. Chairman.

The CHAIRMAN. If it is the wish of the committee then, we will put it in.

Mr. RAKER. That is the only reason I make the suggestion.

The CHAIRMAN. I think we should cut out all of this that we can in the interest of economy.

Mr. RAKER. Yes; I agree with you. We have tried to get those copies but they are very scarce.

The CHAIRMAN. It is so ordered then, unless there is objection.

(The paper referred to follows:)

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,

January 19, 1905.

Ordered. That there be printed for the use of the Senate fifty copies of the following Indian treaties: Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, and R, Thirty-second Congress, first session.

Attest:

CHARLES G. BENNETT,
Secretary.

By H. M. ROSE,
Chief Clerk.

[32d Congress, 1st session.]

Messages from the President of the United States, communicating eighteen treaties made with Indians in California of the following tribes, viz:

- A. Taches, Cal-wal, &c., May 13, 1851.
- B. Ko-ya-te, Wo-la-si, &c., May 13, 1851.
- C. Chu-mute, Wo-wol, &c., June 3, 1851.

- D. Castake, Texon, &c., June 10, 1851.
 E. Iou-ol-umnes, We-chillas, &c., May 28, 1851.
 F. Das-pia, Ya-ma-do, &c., July 18, 1851.
 G. Mi-chop-da, Eskuin, &c., August 1, 1851.
 H. Noe-ma-noe-ma, &c., August 16, 1851.
 I. Colus-Willeys, Co-ha-na, &c., September 9, 1851.
 J. Cu-lu, Yas-si, &c., September 18, 1851.
 K. San Luis Rey, Kah-wē-as, &c., January 5, 1852.
 L. Dieguinos tribes, January 7, 1852.
 M. Si-yan-te, Pōto-yun-te, &c., March 19, 1851.
 N. How-ech-ees, Chook-chancees, April 29, 1851.
 O. Ca-la-na-po, Ha-bi-na-po, August 20, 1851.
 P. Sai-nell, Yu-ki-as, &c., August 22, 1851.
 Q. Poh-lik, or Lower Klamath, &c., October 6, 1851.
 R. Upper Klamath, Shasta, &c., November 4, 1851.

June 7, 1852: Read, and with the documents and treaties, referred to the Committee on Indian Affairs, and order to be printed in confidence for the use of the Senate.

January 18, 1905: Injunction of secrecy removed.

January 19, 1905: Ordered reprinted.

WASHINGTON, June 1, 1852.

To the Senate of the United States:

I communicate to the Senate herewith, for its constitutional action thereon, eighteen treaties negotiated with Indian tribes in California, as described in the accompanying letter of the Secretary of the Interior, dated the 22d ultimo, with a copy of the report of the Superintendent of Indian Affairs for the State of California, and other correspondence in relation thereto.

MILLARD FILLMORE.

DEPARTMENT OF THE INTERIOR,
 May 22, 1852.

SIR: I have the honor to transmit herewith, sundry treaties negotiated with various Indians in California, together with a report from the Commissioner of Indian Affairs, accompanied by a mass of documents relating to the subject.

It was my wish to bring these treaties to your notice at as early a day as practicable, but most of them, it will be perceived, were not received until after the middle of February; and as they involved important principles and large expenditures of money, and as I learned that there was much opposition to them among the people of California, I did not feel justified in submitting them to you officially, until I could inform myself as to their merits, and be prepared to express myself with some degree of confidence as to the propriety of recommending their ratification or rejection. A slight examination of the treaties and accompanying documents will suffice to show that it is impossible to form such an opinion from the information now in possession of the department.

Hence it seemed to be proper, considering the importance of the subject, and the serious consequences likely to result from mistaken action, that the treaties should be committed to some suitable agent of the government, with instructions to examine them thoroughly, and make full report upon the expediency of ratifying, rejecting, or amending them. This course, I was gratified to believe at the time, met the approval of a portion at least of the delegation in Congress from the State of California. The duty of making the desired examination and report devolved on the Superintendent of Indian Affairs for California; but he has been prevented from attending to this and other important business of his office in the manner contemplated, in consequence of the unexpected delay in passing the deficiency bill, now before the Senate. He has, however, made a report, predicated on his general knowledge of the Indians of California and of the country, in which he expresses himself decidedly in favor of the ratification of the treaties; and inasmuch as the department has no present means of obtaining further or more reliable information, and as one of the senators from the State more immediately interested has complained in his place, that the treaties have been improperly withheld

from the Senate, I now submit them for your consideration, and respectfully recommend that they be communicated to the Senate, to be disposed of in such way as that body in its wisdom shall direct.

I am, sir, with much respect, your obedient servant,

ALEX. H. H. STUART,
Secretary.

P. S. The treaties herein referred to are particularly described in the annexed schedule.

To the PRESIDENT OF THE UNITED STATES.

SCHEDULE.

A. Treaty at Camp Belt, May 13, 1851, made and concluded by George W. Barbour and the chiefs and headmen of the Ta-chee, Cah-wia, Yo-kol, Talum-ne, wic-chum-ne, hol-cu-ma, To-e-neche, To-huc-mach, In-tim-peach, Choinnuck, We-mil-ches, and Mo-ton-toes of California.

B. Treaty at Camp Keyes, May 30, 1851, made and concluded between George W. Barbour and the chiefs, captains and headmen of the Ko-ya-tes, Wo-la-si, Nu-chow-we, Wack-sa-che, Pal-wisha, Po-ken-welle, and Ya-wil-chine tribes of Indians in California.

C. Treaty at Camp Burton, June 3, 1851, made and concluded between George W. Barbour and the chiefs, captains and headmen of the Chu-nute, Wo-wol, Yo-lum-ne, and Co-ye-tie tribes of Indians in California.

D. Treaty at Camp Persifer F. Smith, June 10, 1851, made and concluded between George W. Barbour and the chiefs, captains and headmen of the Castake, Texon, San Imirlo, Uvas, Carlises, Buena Vista, Sena-hu-ow, Holo-cla-me, Sohonuts, To-cla-a, and Hol-mi-uh tribes of Indians in California.

E. Treaty at Dent's and Vantine's Crossings, May 28, 1851, made and concluded between O. M. Wozencraft and the chiefs and headmen of the Iou-ol-unne, We-chilla, Sucaah, Co-to-plammis, Chap-pah-sims, and Sage-wom-nes tribes of Indians in California.

F. Treaty at Camp Union, July 18, 1851, made and concluded between O. M. Wozencraft and the chiefs, headmen and captains of the Das-pia, Ya-ma-do, Yoi-la-mer, Wai-de-pa-can, On-o-po-na, Mon-e-da, Wan-nuck, Nem-shaw, Bem-pi, and Ya-cum-na tribes of Indians.

G. Treaty at Bidwell's Ranch, August 1, 1851, made and concluded between O. M. Wozencraft, and the chiefs, captains and headmen of the Mi-chop-da, Es-kulin, Ho-lo-lu-pi, To-to, Su-nus, Che-no, Bat-si, Yut-duc, and Sim-sa-wa tribes of Indians in California.

H. Treaty at Reading's Ranch, August 16, 1851, made and concluded between O. M. Wozencraft, and the chiefs, captains and headmen of the Noe-ma-noe-na, Y-lac-ca, and Noi-me-noi-me tribes of Indians in California.

I. Treaty at Camp Colus, September 9, 1851, made and concluded between O. M. Wozencraft, and the chiefs, captains and headmen of the Colus-Willeys, Co-ha-na, Tat-nah, Cha-doc-duc, Cham-net-co, and Toc-de tribes of Indians in California.

J. Treaty at the fork of Cosumnes river, September 18, 1851, made and concluded between O. M. Wozencraft and the chiefs, captains and headmen of the Co-lu, Yas-si, Loc-lum-ne, and Wo-pum-nes tribes of Indians in California.

K. Treaty at the village of Temecula, California, January 5, 1852, made and concluded between O. M. Wozencraft and the chiefs, headmen and captains of the San Luis Rey, Kah-wé-as nations, and the Co-com-cah-ras tribe of Indians.

L. Treaty at the village of Santa Isabel, California, January 7, 1852, made and concluded between O. M. Wozencraft and the chiefs, captains and headmen of the Dieguinos nation of Indians.

M. Treaty at Camp Frémont, March 19, 1851, made and concluded between Redick McKee, George W. Barbour, and O. M. Wozencraft, and the chiefs, captains and headmen of the Si-yan-te, Pö-to-yun-te, Co-co-nood, Apang-as-se, Aplache, and A-wal-a-che tribe of Indians in California.

N. Treaty at Camp Barbour, April 29, 1851, made and concluded between Redick McKee, G. W. Barbour, and O. M. Wozencraft, and the chiefs, captains and headmen of the How-ech-ees, Chook-chances, Chow-chil-les, Po-ho-nu-chus and Nook-choos, which five tribes acknowledge Nai-yak-quas as their principal chief; also the Pit-cat-chees, Cas-sous, Toom-nas, Tallin-chees, and Pos-ke-sas.

which five tribes acknowledge Tom-quilt as their principal chief; also the Wa-cha-et, Itachees, Cho-e-mem-nees, Cho-ki-men-as, We-mal-ches, and No-to-no-tos, which six tribes acknowledge Pas-qual as their principal chief.

O. Treaty at Camp Lu-pl-yu-ma, August 20, 1851, made and concluded between Redick McKee, and the chief, captains and headmen of the Ca-la-na-po, Ha-bi-na-po, Da-no-ha-bo, Mo-al-kai, Che-com, How-ku-ma, Cha-nel-kai, and the Medan-a-dec tribes of Indians in California.

P. Treaty at Camp Fernando Feliz, August 22, 1852, made and concluded between Redick McKee and the Sal-nell, Yu-ki-as, Mas-su-ta-ka-ya and Pomo tribes of Indians in California.

Q. Treaty at Camp Klamath, October 6, 1851, made and concluded between Redick McKee and the chiefs, captains and headmen of the Poh-lik, or lower Klamaths, Peh-ts-ck, or upper Klamath, and Hoo-pah, or Trinity river tribes of Indians in California.

R. Treaty at camp in Scott's Valley, November 4, 1851, made and concluded between Redick McKee, and the chiefs, captains and headmen of the O-de-i-lah, I-ka-ruck, Ko-se-tah, I-da-kar-i-waka-ha, Wat-su-he-wa, and E-eh tribes of Indians in California.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

May 14, 1852.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, requiring me to report any information in my possession in relation to the treaties negotiated with the Indians in California, transmitted to you on the 13th ultimo, when they were respectively received here; the causes which induced me to delay their transmission; whether they embraced any new principle; whether, in my judgment, the public interests would be promoted or impaired by their ratification, and any facts within my knowledge tending to elucidate the merits of these treaties.

In reply, I would most respectfully state that the correspondence already sent to you, and the copies and extracts herewith of communications since received from the agents in California, and the Superintendent of Indian Affairs for that State, contain, it is believed, all the material information in relation to the treaties which has reached this office.

The dates at which the treaties were respectively received here are as follows:

1. Those negotiated by the board of commissioners were received February 18, 1852.

2. Those negotiated by Agent McKee were received on the same day.

3. Those negotiated by Agent Barbour were received February 2, 1852.

4. Those negotiated by Agent Wozencraft were received—one July 9; two September 22; three November 3, 1851, and two on February 18, 1852. The one received July 9 was represented in the letter enclosing it as a "copy," and it was not until recently that it was discovered to be an original.

The treaties were not transmitted to you at an earlier day because it was desirable to consider them all in connexion, and some of them, as above shown, were not received until recently, and because it was believed that further information was necessary to enable the department to judge correctly as to their merits and the action required in regard to their final disposition. It was known that the delegation in Congress from California were opposed to the treaties, and that there was violent opposition to them in the legislature of that State, where they were undergoing investigation. The final action of that body on the subject has not yet been ascertained. Under these circumstances it seemed to be prudent to take full time for inquiry and deliberation, especially as there was, and is, in my judgment, good reason to apprehend that the hasty rejection of the treaties would be followed by a general Indian war in California, disastrous to the interests of that State and the country at large.

Some of the stipulations of these treaties are regarded as new, the most important of which is that providing for an entire relinquishment of title by some of the tribes, and their permanent settlement *within the limits of a State on lands not previously owned by them*. This provision, as far as I know, is without precedent; but I am by no means prepared to say it is wrong. On the contrary, I am inclined to consider it both necessary and proper in consequence of the impracticability of removing the Indians beyond the limits of the State, and of the expediency of withdrawing them from their intermixture with the white

population. Another peculiarity of these treaties is that they stipulate for no annuities to be paid in perpetuity or for a series of years, according to the common practice heretofore. In view of the probable necessity for future negotiations with these Indians, it is fortunate that a knowledge of the annuity system has not been introduced among them. It is a system fraught with evil, and when once adopted it is impossible to get rid of it.

The treaties also provide that all difficulties between different tribes or members of the same tribe shall be adjusted by the agent of the Government, and that controversies between Indians and whites shall be settled by the civil tribunals of the State. Should these provisions be energetically and faithfully enforced they would doubtless be productive of the most salutary results.

There are some other features of these treaties that might be characterized as novel, but they are not of sufficient importance to require particular notice.

With respect to the question whether the public interest would be promoted or impaired by their ratification I would respectfully refer to the accompanying communication from Superintendent Beale, whose remarks on this point appear to me to be reasonable and just. I entirely concur with him in opinion that a rejection of the treaties without the adoption of precautionary measures guarding against a general outbreak on the part of the Indians would be hazardous and unwise.

The papers heretofore and now communicated contain, I believe, all the facts within my knowledge calculated to elucidate the merits of the treaties. In considering this important and perplexing question it should not be forgotten that our Indian affairs in California, like everything else pertaining to that country, are in an extraordinary and anomalous condition.

Those entrusted with their management have had to contend with manifold embarrassments and difficulties. That they have made mistakes or fallen into errors is by no means a matter of surprise; it would be strange if they had not. Their conduct in some respects has been improper; I allude particularly to their making contracts for fulfilling treaties in advance of their ratification. In this they certainly acted without authority, but it is equally certain that they did not act without precedent. How far precedent and the pressure of the circumstances by which they were surrounded should excuse their unauthorized proceedings it is difficult, without more perfect information than I possess, to determine; nor is it material to the present inquiry, as the merits of the treaties can not be affected by the subsequent action of the agents by whom they were negotiated.

Very respectfully, your obedient servant,

L. LEA, *Commissioner*.

HON. A. H. H. STUART.

Secretary of the Interior.

Report of E. F. Beale, Esq., Superintendent of Indian Affairs for the State of California.

WASHINGTON CITY, D. C., May 11, 1852.

SIR: In compliance with your directions of yesterday to report to you at my earliest convenience my views as to the merits of the treaties recently negotiated with the Indians of California, and particularly as to the expediency of ratifying or rejecting them, I have the honor to submit the following statement:

With reference to my views as to the merits of the treaties I state that I regard the general line of policy pursued by the commissioners and agents in negotiating with the Indians as proper and expedient under the circumstances. My own personal knowledge and experience in Indian affairs, and particularly in reference to the tribes within the State of California, incline me to the opinion that to secure their peace and friendship no other course of policy, however studied or labored it may have been, could have so readily and effectually secured the objects in view. My experience in Indian affairs has also convinced me of the fact that those who best understand the Indian character are exceedingly cautious and deliberate in their negotiations with them, and that precipitate counsels are invariably the results of ignorance, and generally terminate deplorably to both parties. The Indian by nature is suspicious, and although easily governed when his confidence has been obtained, it becomes almost impossible to treat with him after his

suspicious have been aroused. A wise reference to these facts and considerations has doubtless influenced the commissioner in their negotiations, and it is proper that they should be duly considered on the present occasion.

The system of reservations as adopted in these treaties, is but the natural result and consequence of the policy pursued throughout, and may be stated to involve two important considerations, viz: whether the Indians are to have any lands set apart for them, and if so, whether those already selected for them may be justly considered as suitable and appropriate. Humanity and justice alike urge acquiescence in the former, while the following considerations suggest themselves to our attention in connection with the subject.

It is evident that if allowed to roam at pleasure, their early extinction is inevitable, and I am slow to believe that the Government, recognizing as it does, their possessory right to all the soil inhabited by them, would deny them the occupancy of a small portion of the vast country from which such extraordinary benefits are in progress of receipt.

The impracticability of removing them east of the mountains, or so far north or south as to avoid the evils which their proximity to the whites may induce, is apparent from the following considerations.

Much has been said of late in relation to an entire removal of the Indians to the eastward of the Sierra Nevada, and this fact is a painful proof of the entire ignorance of those who advocate the practicability of the measure. When we consider that our topographical knowledge of the interior of Africa is quite as extensive and definite as that which we possess of the eastern slope of this range, it is not difficult to imagine how vastly mistaken are those who look only upon the level surface of a map for information. It is vain to expect that they could be forced in this direction, since all the information which we have of that region of country (and theirs is presumed to be more extensive than our own) is directly opposed to the idea of assigning them to a location supposed to be at best a waste and barren desert. Those individuals who have attempted the exploration of this country have but partially succeeded. They report it as abounding with vast deserts, almost unrelieved by verdure of any description, and that any spot boasting any species of vegetation is already occupied by other Indians. The only known river of any size within this section of the country is the Colorado. The valley of this river is reported by the few bold and hardy trappers of the Rocky Mountains, from whom our only information is derived, as abounding with Indians as far as any have had the courage to explore it, and it is this valley, already filled with an Indian population, which has been suggested as a location for the Indians of California.

To move them north would be but to add one hundred thousand Indians to the already overflowing Indian population of the territory of Oregon. To remove them south is but to place them directly in the line of our southern emigration; thus exposing the lives and property of our citizens, for it requires no vivid imagination to picture the results of a meeting between savages, infuriated by a forcible removal from the homes of their fathers, and an emigration wearied by a march of two thousand miles over a trackless wilderness. In addition to this, it may be well to consider that our treaty stipulations of 1848 with Mexico, forbid our colonizing them on her borders, and to move them in this direction would, to some extent at least, impair the obligations thus solemnly imposed. It may also add insurmountable difficulties to those already existing in opposition to the projected railroad to the Pacific in this direction.

With reference to the character or quality of the land reserved by the treaties for the Indians, I can only speak from personal observation with regard to those selected in the southern portion of the State. They are such as only a half-starved and defenceless people would have consented to receive, and, as a general thing, embrace only such lands as are unfit for mining or agricultural purposes. Admitting, however, that some of these reservation contain gold enough to add a few thousands even, to the many millions taken from the soil, I ask, is it not expedient and politic to permit them to take them, especially since the rejection of the treaties will have a tendency to bring discredit upon the Government and render futile all subsequent attempts at negotiation?

The reservations made in the southern portion of the State are undoubtedly composed of the most barren and sterile lands to be found in California, and any change must, of necessity, be of advantage to the Indians. Those persons

who complain of the reservations in the south have, in no instance, been able to point out other locations less objectionable or valuable than those already selected, and I am disposed to believe that, in no case of reservations under these treaties, will the lands reserved compare favorably with the agricultural and valuable portions of the State.

The necessity of reservations, and of protection to the Indians thus located, is strikingly set forth in a communication of a recent date, from R. McKee, esq., agent, addressed to yourself, and to which I have had access, in which he refers to the recent massacre of two or three villages by the whites, in which neither age nor sex were spared inhuman butchery. The communication closes with some wholesome advice on the subject of reservations, which I cannot refrain from recommending to your attention.

The stipulations contained in these treaties which appear to me to be objectionable, are those which refer especially to the supply of agricultural implements, and the establishment of schools among them. With regard to the first, I am of the opinion that the tribes and bands treated with are not disposed, nor can they be induced at the present time, to engage in agricultural pursuits: and that if the articles necessary for this purpose were furnished to them as stipulated, they would find their way into the possession of the whites without a consideration of value. I would suggest the expediency, therefore, of delegating authority to the agents in whose charge they may be placed, to deliver such articles of this character at the request only of such individuals of the tribes as manifest a desire to engage in this pursuit.

I am likewise of the opinion that the establishment of schools among them at the present time would not subserve their interests; their present state of civilization and advancement being such as to preclude the possibility of their appreciating the benefits to be derived from such instruction.

I regard the other provisions of the treaties, although they may considered novel in their character, as both suitable and appropriate to the wants and desires of the Indians. The supply of beef-cattle for their present or temporary subsistence being limited, the comparative consideration given them for the extinguishment of their title to their lands, may be justly considered as trifling in amount, and especially so, if the objectionable features above stated are stricken out. Those provisions of the treaties stipulating brood-stock, have been wisely inserted, with a view, doubtless, to possess them of the means of subsisting and sustaining themselves after the period for the supply of beef-cattle shall have expired.

From the foregoing remarks you will perceive that my views of the merits of the treaties, as well as of the general policy pursued by the commissioners and agents in their negotiations, are favorable.

With reference to the expediency of ratifying or rejecting the treaties, I remark that, in my opinion, it would be unwise and injudicious in the extreme to reject them, even should it be deemed expedient and necessary hereafter, without previously preparing the minds of the Indians for such an event, and the offering, at once, of some suitable and proper substitute. To reject them outright, without an effort to retain their confidence and friendship, as already secured, by inducements of an equally advantageous character with those already held out to them, would undoubtedly involve the State in a long and bloody war—disastrous and ruinous to her mining and commercial interests, and affecting more or less the prosperity of our whole country.

During the Indian war of last spring, whole mining districts were abandoned, and, although unacquainted with the statistics of the State, I will venture the remark that the exports of gold were less by millions during that period than during the months immediately succeeding. If this was the result of a war with a very few tribes, what may be considered as the effects of a war with the entire Indian population of California? Popular feeling prejudicial to the treaties has been assigned as a reason for their rejection, and can not the question be properly and naturally asked, will popular feeling point out a substitute? I venture the prediction in this matter, that an entire change in popular feeling will take place, at least among such as regard the Indians as having a right even to a bare and scanty living.

To those who regard the stipulations of these treaties as novel, I would simply remark that *beef and flour* are but substitutes for annuities in *money, powder, lead, and guns*, and that while the treasury is being drawn upon *annually* to fulfill the obligations of other treaties, these supplies are to *cease* after the short term of two or three years.

In conclusion, I would remind the Department that economy may be ill-timed in the present case, and prove but the certain cause of great and extraordinary expenditure: for it is not an easy matter to estimate the cost of an Indian war in California; the late report of the Quartermaster General of the Army, however, affords a faint outline, which economy warns us not to fill.

Very respectfully, your obedient servant,

EDWARD F. BEAIE,

Superintendent Indian Affairs for California.

HON. L. LEA,

Commissioner of Indian Affairs.

(A.) TREATY MADE AND CONCLUDED AT CAMP BELT, ON KING'S RIVER, IN THE STATE OF CALIFORNIA, MAY 13, 1851, BETWEEN GEORGE W. BARBOUR, COMMISSIONER ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE TACHES, CAH-WAI, ETC., ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Belt, on King's river, in the State of California, on the thirteenth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains, and head men of the following tribes of Indians, to wit: the Ta-ches, Cah-wai, Yo-kol, Ta-lum-ne, Wic-chum-ne, Hol-cu-nna, To-e-neche, Tu-huc-mach, In-lu-peach, Chol-nuck, We-mil-ches, and Mo-ton-toes, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the government of the United States, and undertake and promise on their part to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes.

ART. 2. It is agreed between the contracting parties that for any wrong or injury done by individuals of either party to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that a district of country between the Cah-wai river, or the first of the four creeks, and the Chou-chille river, to be laid off as follows, to wit: beginning at the point in the Cah-wai river where the southwestern line of the lands set apart for the Indians at the treaty made and concluded at Camp Barbour on the San Joaquin river, leaves said river for the Chou-chille river; running thence down the middle of the Cah-wai river to the Tulere or Tache lake; thence along the same in the direction of and to the mouth of King's river; thence up said river to a point six miles below where the said southwestern line of the lands set apart for the Indians at the treaty made at Camp Barbour on the San Joaquin river as aforesaid, crosses said King's river; thence a line to the Chou-chille river to be run parallel to the aforesaid line crossing the San Joaquin and Fresno rivers, and intersecting the Chou-chille at the distance of six miles from said southwestern line; thence up the Chou-chille to said line and with it to the beginning on the Cah-wai river, shall be set apart and forever held for the sole use and occupancy of said tribes of Indians; in consideration of which, and the further consideration of, permitting said tribes to hunt wild game and gather wild fruit, nuts, &c., in the hills and mountains between the Cah-wai and Chou-chille rivers, the said tribes hereby forever quit claim to the government of the United States to any and all lands to which they or either of them may ever have had any claim or title.

ART. 4. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and two, it is agreed by the party of the first part to furnish said tribes jointly (to be distributed in proper proportions among them,) with six hundred head of beef-cattle, to average five hundred pounds each, and five hundred sacks of flour, to average one hundred pounds each, for each year.

ART. 5. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly and free of charge with the following articles, to wit: fifty brood mares and two stallions, sixty cows and five bulls, twenty-four ploughs, twelve sets of harness complete, twenty-four work mules or horses, twenty-four yoke of California oxen, two hundred axes, two hundred hoes, one hundred spades or shovels, one hundred picks, all the necessary seeds for sowing and planting for one year, three thousand pounds of iron and six hundred pounds of steel, two thousand blankets, two flannel shirts and two pairs of coarse pants for each man and boy over fifteen years of age, three thousand yards of lindsey cloth and the same quantity of cotton cloth, and the same of coarse calico for clothing for the women and children, fifty pounds of thread, five thousand needles, five hundred thimbles, and twelve dozen pairs of scissors, and one dozen good grindstones.

ART. 6. The United States agree further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming, one blacksmith, and one skilled in working in wood, (wagon maker or rough carpenter,) one superior and such assistant school teachers as may be necessary, all to live among and work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers to be supplied to said tribes and continued only so long as the President of the United States shall deem advisable; a school-house, and all other buildings necessary for the persons mentioned in this article to be furnished by the government, and for that purpose the government of the United States hereby retains and reserves to herself in the lands herein set apart for the Indians, not only the right to erect said buildings, but also the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government, and the right of way over any portion of said territory.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the contracting parties have hereto signed their names and affixed their seals this thirteenth day of May, anno Domini eighteen hundred and fifty-one.

G. W. BARBOUR. [SEAL.]

Taches.

QUINTIN, his x mark, chief.	[SEAL.]
JOSE ANTONIO, his x mark.	[SEAL.]
SU-LIO, his x mark.	[SEAL.]
ELARION, his x mark.	[SEAL.]
GREGORIOR, his x mark.	[SEAL.]

Notontora.

MANUEL, his x mark, chief.	[SEAL.]
SANTIAGO, his x mark.	[SEAL.]
INOCENTE, his x mark.	[SEAL.]
ESTANISLAN, his x mark.	[SEAL.]
JOSE QUINTIN, his x mark.	[SEAL.]
JUAN, his x mark.	[SEAL.]

We-mil-ches.

JULIANO, his x mark, chief.	[SEAL.]
JOSE MARTIN, his x mark.	[SEAL.]
PEDRO, his x mark.	[SEAL.]
JOSE ANTONIO NICOLAS, his x mark.	[SEAL.]

Choi-nues.

VALENTINE, his x mark.	[SEAL.]
JOSE, his x mark.	[SEAL.]
EBON, his x mark.	[SEAL.]
FRANCISCO, his x mark.	[SEAL.]
SATRONINE, his x mark.	[SEAL.]

Intimpeaches.

ANTONIO, his x mark, chief.	[SEAL.]
SISTO, his x mark.	[SEAL.]

Tu-huc-maches.

SYLVESTER, his x mark, chief.	[SEAL.]
CERVANTES, his x mark.	[SEAL.]

Tor-neches.

CASTRO, his x mark, chief.	[SEAL.]
JOSE ANTONIO, his x mark.	[SEAL.]

Holcumas.

HAMUCH, his x mark, chief.	[SEAL.]
TOMAS, his x mark.	[SEAL.]

Wic-chum-nes.

EAHAL, his x mark.	[SEAL.]
MANUEL, his x mark.	[SEAL.]
IGNACIO, his x mark.	[SEAL.]
CHILO, his x mark.	[SEAL.]

To-lum-nes.

TO-HIL-NA, his x mark.	[SEAL.]
JOAQUIN, his x mark.	[SEAL.]

Cah-wats.

FRANCISCO, his x mark.	[SEAL.]
BAUTISTA, his x mark.	[SEAL.]
RAFAEL, his x mark.	[SEAL.]

Yo-kols.

ECHA, his x mark.	[SEAL.]
JUAN TAMATO, his x mark.	[SEAL.]
JOSE MARIA, his x mark.	[SEAL.]

Signed and sealed in duplicate, after being read and explained, in the presence of—

H. S. BURTON, *Interpreter.*

N. H. McLEAN, *Secretary.*

W. S. KING, *Assistant surgeon, U. S. Army.*

T. MOORE, *Second lieutenant 2d infantry.*

H. G. J. GIBSON, *Second lieutenant 3d artillery.*

(B.) TREATY MADE AND CONCLUDED AT CAMP KEYES, ON THE CAH-WAI RIVER, IN THE STATE OF CALIFORNIA, MAY 30, 1851, BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE KO-YA-TE, WO-A-SI, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Keyes, on the Cahwai river, in the State of California, on the thirteenth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Ko-ya-te, Wo-la-si, Nu-chow-we, Wack-sa-che, Pal-wisha, Po-ken-welle, and Ya-wil-chine, of the second part.

ARTICLE 1. The said tribes of Indians, jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the United States, and undertake, and promise on their part, to live on terms of peace and friendship with the government of the United States, and the citizens thereof, with each other, and with all Indian tribes.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done by individuals of either party, to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases, the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectually to suppress crime, and punish guilty offenders, the said Indian tribes, jointly and severally, promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following districts of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: beginning on the Cahwai river, where the northeastern line of the lands set apart for the Indians, at the treaty concluded at Camp Barbour, on the San Joaquin river, intersects said Cahwai river, thence up the middle of the said river to the two ponds, or small lakes, at the head of said river, thence a straight line to the nearest point on King's river, thence down said river to where said northeastern line aforesaid crosses said river thence with said line to the beginning. The other tract to commence at the northwestern terminus of Tulare or Tache lake, near the mouth of King's river, thence a straight line to the San Joaquin river, so as to intersect said river at the mouth of the slough that empties into said river on the south side, at or near what is known as the big bend of said river, thence up the middle of said river to where the southwestern line of the lands, set apart for the Indians at the treaty made and concluded at Camp Belt, on King's river, crosses the San Joaquin, thence with said line to King's river, and down said King's river to the lake, and to the beginning, reserving to the government of the United States the right of way, and the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government, in each of said territories.

ART. 4. In consideration of which the said tribes of Indians, jointly and severally, forever quit claim to the government of the United States to any and all lands to which they, or either of them now have, or may ever have had any claim or title whatsoever.

ART. 5. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and eighteen hundred and fifty-two, it is agreed by the party of the first part, to furnish said tribes jointly, (to be distributed in proper proportions among them) with two hundred beef-cattle, to average five hundred pounds each, and two hundred sacks of flour, of one hundred pounds each, for each year.

ART. 6. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States, as may be practicable and convenient, the said tribes shall be furnished jointly, and free of charge, with the following articles of property, to wit: ten brood mares and one stallion, twenty cows and a bull, five large ploughs and five small ones, ten sets of harness complete, ten work mules or horses, ten yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty picks or mattocks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pants and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, the same of cotton, and the same of coarse calico for clothing for the women and children, twenty pounds of thread, two thousand needles, two hundred thimbles, five dozen pairs of scissors, and seven grindstones.

ART. 7. The United States agrees further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming: one blacksmith, and one skilled in working in wood, (wagon maker or rough carpenter,) one superior and such assistant school teachers as may be necessary, all to live among, work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers, to be supplied by said tribe, and continued only so long as the President of the United States

shall deem advisable; a school-house and other buildings necessary for the persons mentioned in this article to be erected by the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names and affixed their seals, this day and year first written.

G. W. BARBOUR, [SEAL.]

Ko-ya-te.

PEDRO, his x mark. [SEAL.]

JOSE ANTONIO, his x mark. [SEAL.]

JOSE, his x mark. [SEAL.]

SANTIAGO, his x mark. [SEAL.]

Nu-chow-we.

CHULOGIUS, his x mark. [SEAL.]

CARLOS, his x mark. [SEAL.]

PABLO, his x mark. [SEAL.]

Wo-las-si.

IGNACIA, his x mark. [SEAL.]

ALEJO, his x mark. [SEAL.]

MARIANO, his x mark. [SEAL.]

Wack-sa-che.

CHO-O-PO, his x mark. [SEAL.]

JUAN, his x mark. [SEAL.]

JOSE ANTONIO, his x mark. [SEAL.]

Pal-wish-a.

TU-TROP, his x mark. [SEAL.]

GUADELÚPE, his x mark. [SEAL.]

JUAN ANTONIO, his x mark. [SEAL.]

Po-kow-ucelle.

BO-CA, his x mark. [SEAL.]

IGNORIO, his x mark. [SEAL.]

ILARION, his x mark. [SEAL.]

Ya-wil-chi-ne.

ANTONIO, his x mark. [SEAL.]

JOAQUIN, his x mark. [SEAL.]

JOSE, his x mark. [SEAL.]

Signed and sealed in duplicate, after being read and explained, in the presence of—

H. S. BURTON, *Interpreter,*

KIT BARBOUR, *Secretary,*

E. D. KEYES, *Captain third artillery.*

J. C. FREMONT.

J. H. LENDRUM, *Brevet captain, third artillery.*

(C.) TREATY MADE AND CONCLUDED AT CAMP BURTON, ON PAINT CREEK, STATE OF CALIFORNIA, JUNE 3, 1851. BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE CHU-NUTE, WO-WOL, &c. TRIBES OF INDIANS.

A treaty of peace and friendship, formed and concluded at Camp Burton, on Paint Creek, in the State of California, on the third day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States, to make treaties with the

various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Chu-nute, Wo-wol, Yo-lum-ne, Co-ye-tie, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control and management of the government of the United States, and undertake and promise on their part, to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes at peace with the United States.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done by individuals of either party to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following districts of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: To the Chu-nute and Wo-wol tribes, all that district of country lying between the head of the Tulare or Tache lake and Kern or Buena Vista lake; to the Ya-lum-ne and Co-ye-tie tribes, all that district of country lying between the Tule River and Paint Creek, and between the Emigrant road (being the same over which the military escort accompanying the said commissioner passed to this camp) and the Sierra Nevada, running the lines from the head of Tule river and Paint Creek in the same general direction of said streams to the nearest points of the Sierra Nevada, reserving to the government of the United States and to the State of California the right of way over said territories and the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government in each of said territories. In consideration of the foregoing, the said tribes of Indians jointly and severally forever quit claims to the government of the United States to any and all lands to which they or either of them now or may ever have had any claim or title whatsoever.

ART. 4. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians, for the period of two years from this date, it is agreed by the party of the first part to furnish said tribes jointly (to be distributed in proper proportions among them) with two hundred beef cattle to average five hundred pounds each, for each year. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly (to be distributed as aforesaid) and free of charge, with the following articles of property, to wit: thirty cows and two bulls, six large and six small ploughs, twelve sets of harness complete, twelve work mules or horses, twelve yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty mattocks or picks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pantaloons and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, same of cotton cloth, and the same of coarse calico, for clothing for the women and children, twenty-five pounds of thread, two thousand needles, two hundred thimbles, six dozen pairs of scissors, and six grindstones.

ART. 5. The United States agree further to furnish to each of said districts, a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one man skilled in working in wood (wagon maker or rough carpenter); one supervisor and such assistant school-teachers as may be necessary, all to live among, work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers, to be supplied to said tribes and continued only so long as the President of the United States shall deem advisable; a school-house and other buildings necessary for the persons mentioned in this article to be erected at the cost of the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names and affixed their seals, this the day and year first written.

G. W. BARBOUR. [SEAL.]

Chu-nute.

JUAN, his x mark, chief.	[SEAL.]
CALISTRO, his x mark.	[SEAL.]
GASPER, his x mark.	[SEAL.]
NICOLAS, his x mark.	[SEAL.]

Ya-lum-ne.

JOAQUIN, his x mark, chief.	[SEAL.]
JOSE MARIA, his x mark.	[SEAL.]
JUAN ANTONIO, his x mark.	[SEAL.]

Ka-ye-te.

JOSE ANTONIO, his x mark, chief.	[SEAL.]
JUAN MARIA, his x mark.	[SEAL.]
MANUEL, his x mark.	[SEAL.]

Wo-icol.

ANTONIO, his x mark, chief.	[SEAL.]
BI-TAR, his x mark.	[SEAL.]
ZA-CA-RI-AH, his x mark.	[SEAL.]
CO-MI-TES, his x mark, chief.	[SEAL.]

Signed and sealed in duplicate, after having been read and fully explained, in presence of—

H. S. BURTON, *Interpreter.*
 KIT BARBOUR, *Secretary.*
 E. D. KEYES, *Captain third artillery.*
 J. C. FREMONT.
 W. S. KING, *Assistant surgeon, U. S. Army.*
 I. H. LENDRUM, *Brevet captain, U. S. Army.*
 J. HAMILTON, *Lieutenant 3d artillery.*
 H. G. J. GIBSON, *Second Lieutenant 3d artillery.*

(D.) TREATY MADE AND CONCLUDED AT CAMP PERSIFER F. SMITH, AT THE TEXAN PASS, STATE OF CALIFORNIA, JUNE 10, 1851, BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE "CASTAKE," "TEXON," &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Persifer F. Smith at the Texon pass, in the State of California, on the tenth day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Castake, Texon, San Imirio, Uvas, Carises, Buena Vista, Sena-hu-ow, Holo-cla-me, Soho-nuts, To-ci-a, and Hol-mi-uh, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control and management of the government of the United States, and undertake and promise on their part, to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes at peace with the United States.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done individuals of either party, to the person or property of those of

the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following district of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: beginning at the first forks of Kern river, above the Tar springs, near which the road travelled by the military escort, accompanying said commissioner to this camp crosses said river, thence down the middle of said river to the Carises lake, thence to Buena Vista lake, thence a straight line from the most westerly point of said Buena Vista lake to the nearest point of the Coast range of mountains, thence along the base of said range to the mouth or westerly terminus of the Texon pass or Cañon, and from thence a straight line to the beginning; reserving to the government of the United States and to the State of California, the right of way over said territory, and the right to erect any military post or posts, houses for agents, officers and others in the service or employment of the government of said territory. In consideration of the foregoing, the said tribes of Indians, jointly and severally, forever quit claim to the government of the United States to any and all other lands to which they or either of them now have or may ever have had any claim or title whatsoever.

ART. 4. In further consideration of the premises and for the purpose of aiding in the subsistence of said tribes of Indians for the period of two years from this date, it is agreed by the party of the first part to furnish said tribes jointly, (to be distributed in proper proportions among them,) with one hundred and fifty beef cattle, to average five hundred pounds each, for each year. It is further agreed that as soon after the ratification of this treaty by the President and Senate of the United States, as may be practicable and convenient, the said tribes shall be furnished jointly (to be distributed as aforesaid) and free of charge, with the following articles of property, to wit: six large and six small ploughs, twelve sets of harness complete, twelve work mules or horses, twelve yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty mattocks or picks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pantaloons and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, same of cotton cloth, and the same of coarse calico, for clothing for the women and children, twenty-five pounds of thread, three thousand needles, two hundred thimbles, six dozen pairs of scissors, and six grindstones.

ART. 5. The United States agree further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one man skilled in working in wood. (wagon maker or rough carpenter;) one superior and such assistant school-teachers as may be necessary; all to live among, work for, and teach said tribes and such others as they may be required to work for and teach. Said farmer, blacksmith, worker in wood and teachers to be supplied to said tribes, and continued only so long as the President of the United States shall deem advisable; a school house and other buildings necessary for the persons mentioned in this article, to be erected at the cost of the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names, and affixed their seals, this the day and year first written.

G. W. BARBOUR. [SEAL.]

Teton.

VINCENTE, his x mark, chief.	[SEAL.]
CHICO, his x mark, chief.	[SEAL.]
PABLO, his x mark.	[SEAL.]
JOSE ANTONIO, his x mark.	[SEAL.]
MARTIN, his x mark.	[SEAL.]
FRANCISCO, his x mark.	[SEAL.]

Castake.

RAFAEL, his x mark, chief.	[SEAL.]
FRANCISCO, his x mark.	[SEAL.]
MANUEL, his x mark.	[SEAL.]

San Imirio.

JOSE MARIA, his x mark, chief.	[SEAL.]
FRANCISCO, his x mark.	[SEAL.]

Ucas.

ANTONIO, his x mark.	[SEAL.]
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Carices.

RAYMUNDO, his x mark, chief.	[SEAL.]
JUAN, his x mark.	[SEAL.]
JUAN DE DIOS, his x mark.	[SEAL.]

Buena Vista.

APOLONIO, his x mark, chief.	[SEAL.]
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Sena-hu-uc.

JOAQUIN, his x mark, chief.	[SEAL.]
EMITERIO, his x mark, chief.	[SEAL.]
NICOLAS, his x mark.	[SEAL.]
BENANCIO, his x mark.	[SEAL.]

Holo-cla-me.

URBANO, his x mark, chief.	[SEAL.]
OLORICO, his x mark.	[SEAL.]

Soho-nuts.

JOSE, his x mark, chief.	[SEAL.]
MARIANO, his x mark.	[SEAL.]

To-ci-a.

FELIPPE, his x mark, chief.	[SEAL.]
PEDRO, his x mark.	[SEAL.]
URBANO, his x mark.	[SEAL.]

Hol-mi-uh.

FRANCISCO, his x mark, chief.	[SEAL.]
TOMAS, his x mark.	[SEAL.]

Signed and sealed in duplicate, after having been read and fully explained in the presence of—

H. S. BURTON, *Interpreter.*

KIT BARBOUR, *Secretary.*

W. S. KING, *Assistant Surgeon, United States Army.*

J. H. LENDRUM, *Brevet captain, third artillery.*

J. HAMILTON, *Lieutenant, third artillery.*

H. G. J. GIBSON, *Second Lieutenant, third artillery.*

WALTER M. BOOTH.

(E.) TREATY MADE AND CONCLUDED AT DENT & VANTINE'S CROSSINGS, MAY 28, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES COMMISSIONER, AND THE CHIEFS AND HEAD MEN OF IOU-OL-UMNES, WETHILLAS, &C. TRIBES OF INDIANS.

A treaty of peace and friendship, made and concluded at Dent & Vantine's Crossings, on the Stanislaus river, California between the commissioner plenipotentiary of the United States of America, of the one part, and the chiefs, captains and head men of the Iou-ol-umne, We-chilla, Su-caah, Co-to-pla-nemis, Chap-pah-sims and Sage-wom-nes tribes, of the other part.

ARTICLE 1. The several tribes or bands above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States.

ART. 3. Lest the peace and friendship hereby established between the United States and the said tribes be interrupted by the misconduct of individuals, it is expressly agreed that for injuries on either side no private revenge or retaliation shall take place, but instead thereof complaint shall be made by the party aggrieved to the other through the Indian agent of the United States in their district, whose duty it shall be to investigate and, if practicable, to adjust the difficulty; or, in case of acts of violence being committed upon the person or property of a citizen of the United States by an Indian or Indians belonging to or harbored by either of said tribes, the party charged with the commission of the crime shall be promptly delivered up to the civil authorities of the State of California for trial; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes, the agent shall take all proper measures to bring the offender or offenders to justice in the same way.

ART. 4. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following districts of country in the State of California shall be and is hereby set apart forever, for the sole use and occupancy of the aforesaid tribes, to wit: beginning at an acute bend of the river about half a mile distant from and above this place, running thence in a due line to the elbows of Toulumne, opposite the point fixed in the former treaty, and running down in a straight line eight miles on said river, from thence across the Stanislaus river on a line parallel with the first, thence up the middle of said river to place of beginning, to have and to hold the said district of country for the sole use and occupancy of said Indian tribes forever: *Provided*, that there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school-houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof. It is expressly understood and stipulated, that the right of way heretofore specified does not include the right of ferrying free of toll on the rivers within or bounding said reservation to persons other than those in the service or employ of the United States; the latter, however, shall pass free of toll; the said ferries to be under the control of the agent for the use and benefit of said bands and tribes of Indians.

ART. 5. To aid the said tribes or bands in their subsistence while removing to and making their settlement upon the said reservation, the United States, in addition to the numerous and valuable presents made to them at this council, will furnish them, free of charge, with four hundred head of beef-cattle to average each five hundred pounds, two hundred sacks flour of one hundred pounds each, and two hundred head of goats, within the term of two years from the date of this treaty.

ART. 6. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, (to be divided among them by the agent according to their respective numbers and wants) during the two years succeeding the said ratification, viz: one pair of long pantaloons and one red flannel shirt for each man and boy; one linsey cap for each woman and girl, one thousand yards calico, one thousand yards brown sheetings, ten pounds Scotch thread, two dozen pairs assorted scissors, one dozen thimbles, three thousand needles, one 2½ Pt. M. blanket for each man and woman over fifteen years of age; one thousand pounds iron and two hundred pounds steel; and in like manner for the first year for the permanent part of the said tribes, and as their joint property, viz: twenty-five brood-mares and one stallion, one hundred and fifty milch cows and nine bulls, four yoke of work cattle with yokes and chains, four work mules or horses, ten ploughs of assorted sizes, ten sets harness for plough horses, seeds of all proper kinds for planting, thirty-five chopping axes, ten mattocks or picks, thirty-five hatchets, one hundred garden or corn hoes, thirty-five spades, and six grindstones. The stock enumerated above and the product thereof shall be marked or branded with such letters as will at all times designate the same to be property of said tribe, and no other portion thereof shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.

ART. 7. The United States will also employ and settle among said tribes at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said tribes, in reading, writing, &c., and in the domestic arts upon the manual labor system; all the above named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school houses, shops and dwellings for the accommodation of the schools, teachers and mechanics above specified, and for the protection of the public property.

ART. 8. The chiefs and captains aforesaid, for themselves and their respective tribes, stipulate to be active and vigilant in preventing the retreating to or passing through the district of country assigned them, of any absconding slaves or fugitives from justice; and further agree to use all necessary exertion to apprehend and deliver the same to the agent, who shall receive orders to compensate them agreeably to the trouble and expenses incurred.

ADDITIONAL.

ART. 9. For and in consideration of the uniform friendly, honest and meritorious deportment of Captain Cornelius towards the American citizens, it is agreed and stipulated that the tract of land on which he now resides is hereby set apart for the sole use and occupancy of himself and his people, but not as a grant in fee simple, bounded as follows: beginning at a point on the north-east side of the Touolumne river, one quarter of a mile below How's ferry, running thence down said river three miles, thence out and back to the place of beginning, embracing a square of three miles; and in further consideration of his appreciation of our republican form of government, we hereby present him with an American flag, it being the first request made by him to us.

These articles to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this twenty-eighth day of May, in the year of our Lord one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT, [SEAL.]

For and in behalf of the Tou-ol-unnes.

CORNELIUS, his x mark. [SEAL.]

SALA-DO-NIA, his x mark. [SEAL.]

• *For and in behalf of the We-Chillas.*

WE-CHILLA, his x mark.	[SEAL.]
JOSE-TRIN-I-DAD, his x mark.	[SEAL.]
LU-TEE-MA, his x mark.	[SEAL.]
FRANCISCO, his x mark.	[SEAL.]
NEN-TU-IA, his x mark.	[SEAL.]
MANUEL, his x mark.	[SEAL.]
IRAN-KA-LINO, his x mark.	[SEAL.]
MANUEL, his x mark. (Grande.)	[SEAL.]

For and in behalf of the Suc-caahs.

SUC-CAAH-KE, his x mark.	[SEAL.]
YOU-IT-KA, his x mark.	[SEAL.]

For and in behalf of the Co-to-pla-ne-mis.

PA-KI-NO, his x mark.	[SEAL.]
FE-RE-SETO, his x mark.	[SEAL.]

For and in behalf of the Chap-pah-sims.

FE-LIPPE, his x mark.	[SEAL.]
NI-CO-LAS, his x mark.	[SEAL.]

For and in behalf of the Sage-wom-nes.

YO-MIL-LO, his x mark.	[SEAL.]
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Signed, sealed and delivered, after being fully explained, in presence of—

E. S. LOWELL, *Secretary.*

A. JOHNSON, *Agent.*

F. BELCHER,

JOHN C. DENT,

S. D. ENT.

(F.) TREATY MADE AND CONCLUDED AT CAMP UNION, NEAR YUBA RIVER, JULY 18, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE DAS-PIA, YA-MA-DO, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Union, near the Yuba river, between the United States Indian Agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes, viz: Das-pla, Ya-ma-do, Yol-la-mer, Wai-de-pa-can, On-o-po-ma, Mon-e-da, Wan-muck, Nem-shaw, Bem-pl, Ya-cum-na tribes, of the other part.

ARTICLE 1. The several tribes or bands above-mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may come under the protection of the United States; and furthermore bind themselves to conform to, and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of country in the State of California, shall be, and is hereby set apart forever for the sole use and occupancy of the aforesaid tribes of Indians, to wit: commencing on Bear River, at the western line or boundary of Camp Far West; from thence up said stream twelve miles in a due line; from thence on a line due north to the

Yuba river; thence down said stream twelve miles on a due line of the river; from thence south to the place of beginning, to have and to hold the said district of country for the sole use and occupancy of said Indian tribes forever. *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public building school houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence, while removing to and making their settlement upon the said reservation, the United States, in addition to the few presents made them at this council, will furnish them, free of charge, with five hundred (500) head of beef cattle, to average in weight five hundred (500) pounds, two hundred (200) sacks of flour, one hundred (100) pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient, alter the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be divided among them by the agent, according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz: one pair of strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, four thousand yards of calico and one thousand yards brown sheeting, forty pounds Scotch thread, two dozen pairs of scissors, eight dozen thimbles, three thousand needles, one two and a half point Mackinaw blanket for each man and woman over fifteen (15) years of age, four thousand pounds of iron and four hundred pounds of steel, and in like manner in the first year, for the permanent use of the said tribes, and as their joint property, viz: seventy-five brood mares and three stallions, three hundred milch cows and eighteen bulls, twelve yoke of work cattle with yokes and chains, twelve work mules or horses, twenty-five ploughs, assorted sizes, two hundred garden or corn hoes, eighty spades, twelve grindstones. Of the stock enumerated above, and the product thereof, no part or portion shall be killed, exchanged, sold, or otherwise parted with without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said tribes, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits, one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper, to instruct said tribes in reading, writing, &c., and in the domestic arts, upon the manual labor system; all the above-named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school-houses, shops and dwellings, for the accommodation of the school teachers and mechanics above specified, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals this eighteenth day of July, anno Domini one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT,
United States Indian Agent.

For and in behalf of the Das-pia.

WEE-MAR, his x mark. [SEAL.]

For and in behalf of the Ya-ma-do.

OI-TA, his x mark. [SEAL.]

Yo-la-mir.

WAL-LE-PIE, his x mark. [SEAL.]

Wai-de-pa-can.

KA-MA-LA, his x mark. [SEAL.]

On-o-po-ma.

MAN-ARCK, his x mark. [SEAL.]

Mon-e-da.

WAL-LEM-HOOK, his x mark. [SEAL.]

Wan-nuck.

YU-ME-AN, his x mark. [SEAL.]

Nem-Shaw.

WAS-HI-MA, his x mark. [SEAL.]

Ben-pi.

TI-CO-LA, his x mark. [SEAL.]

Sa-cum-na.

YO-LO, his x mark. [SEAL.]

Signed, sealed, and delivered, after being fully explained, in presence of—

GEORGE STONEMAN, *Lieutenant first dragoons,*
*Commanding escort to Indian Commissioner.*JOHN CAMPBELL, *Assistant Surgeon,*
Escort to Indian Commissioner.

A. T. STIRLING.

E. S. LOWELL, *Secretary, U. S. Indian Agency.*

ADDENDA.—It is understood that the above-named boundary, running north from Bear River, will pass between Rough and Ready and Penn Valley; and in the event that a line due north from said point on said river should fail to do so, it will deviate so far as to include said valley in the reservation, and exclude Rough and Ready.

(G.) TREATY MADE AND CONCLUDED AT BIDWELL'S RANCH, ON CHICO CREEK, AUGUST 1, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE MI-CHOP-DA, ES-KUIN, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded near Bidwell's Ranch, or Chico creek, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes, viz: Mi-chop-da, Es-kuin, Ho-lo-lu-pi, To-to, Su-nus, Che-no, Batsi, Yut-duc, Sim-sa-wa, tribes, of the other part.

ARTICLE 1. The several tribes or bands above mentioned, do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledged themselves, jointly and severally, under the exclusive jurisdiction, authority, and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may come under the protection of the United States. And furthermore bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands it is hereby stipulated and agreed that the following district of country, in the State of California, shall be and is hereby set apart for the sole use and occupancy of the aforesaid tribes of Indians, to wit: commencing at a point on Feather river, two miles above the town of Hamilton, and extending thence northwesterly to the northeast corner of Neal's grant, thence northwesterly along the boundaries of Neal's, Hensley's and Bidwell's grant to the northeast corner of the last named grant, thence northeasterly six miles, thence southeasterly parallel with the

line extending from the beginning point to the northeast corner of Bidwell's grant to Feather river, and thence down said river to the place of beginning. *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public building, school houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence while removing to and making their settlement upon the said reservation, the United States, in addition to the few presents made them at this council, will furnish them, free of charge, with two hundred (200) head of beef-cattle, to average in weight five hundred (500) pounds each, seventy-five sacks of flour one hundred (100) pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be divided among them by the agent according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, two thousand yards calico and five hundred yards brown sheeting, twenty pounds Scotch thread and one thousand needles, six dozen thimbles and two dozen pairs scissors, one two and a half point Mackinaw blanket for each man and woman over fifteen (15) years of age, one thousand pounds of iron, one hundred pounds of steel; and in like manner in the first year for the permanent use of the said tribes, and as their joint property, viz: twenty-five brood mares and one stallion, one hundred milch cows and six bulls, four yoke work-cattle with yokes and chains, six work-mules or horses, twelve ploughs assorted sizes, seventy-five garden or corn hoes, twenty-five spades, four grindstones. The stock enumerated above and the product thereof; and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said tribes, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits: one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said tribes in reading, writing, &c., and in the domestic arts upon the manual labor system: all the above-named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school-houses, shops and dwelling for the accommodation of the school-teachers and mechanics above specified, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals this first day of August, in the year of our Lord one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT,
United States Indian Agent.

For and in behalf of the Mi-chop-da.

LUCK-Y-AN, his x mark. [SEAL.]

For and in behalf of the Es-kuin.

MO-LA-YO, his x mark. [SEAL.]

For and in behalf of Ho-lo-lu-pi.

WIS-MUCK, his x mark. [SEAL.]

For and in behalf of the To-to.

WE-NO-KE, his x mark. [SEAL.]

For and in behalf of the Su-nus.

WA-TEL-LI, his x mark. [SEAL.]

For and in behalf of the Che-no.

YO-LO-SA, his x mark. [SEAL.]

For and in behalf of the Bat-si.

YON-NI-CHI-NO, his x mark. [SEAL.]

For and in behalf of the Yut-duc.

SO-MIE-LA, his x mark. [SEAL.]

For and in behalf of the Simsa-wa.

PO-MA-KO, his x mark. [SEAL.]

Signed, sealed, and delivered, after being fully explained, in presence of—

EDW. H. FITZGERALD, *Brevet major first dragoons.*

GEORGE STONEMAN, *Lieutenant first dragoons.*

THOMAS WRIGHT, *second Lieutenant second infantry.*

J. BUDWELL.

(H.) TREATY MADE AND CONCLUDED AT READING'S RANCH, ON COTTON WOOD CREEK, STATE OF CALIFORNIA, AUGUST 18, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE NOE-MA, &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Reading's ranch, on Cotton Wood creek, California, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains and head men of the following tribes or bands, viz: Noi-ma, Noe-ma, Y-lac-ca, No-me, Nol-me.

ARTICLE 1. The several bands or tribes above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the territory ceded to them by a treaty of peace, made between them and the Republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States; and, furthermore, bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of country, in the State of California, shall be and is hereby set apart forever, for the sole use and occupancy of the aforesaid tribes or bands, to wit: commencing at a point at the mouth of Ash creek, on the Sacramento river, running up the east branch of said river twenty-five miles, thence on a line due north to the Pitt fork of the said river, thence down said river to the place of beginning.

It is further understood and agreed upon by both parties, that the tribes or bands of Indians living upon the Shasta, Nevada, and Coast ranges, shall be included in the said reservation; and should said bands not come in, then the provisions &c. as set apart in this treaty, to be reduced in a ratio commensurate with the number signing said treaty; *Provided*, that there is reserved to the United States government the right of way over any portion of said territory, and the right to establish any military post or posts, public buildings, school-houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians.

The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence while removing to and making their settlement upon the said reservation, the United States, in

addition to the few presents made them at this council, will furnish them, free of charge, with five hundred head of beef-cattle to average in weight five hundred pounds, and seventy-five sacks of flour of one hundred pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be divided among them by the agent according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, two thousand yards calico and five hundred yards brown sheeting, twenty pounds Scotch thread and one thousand needles, six dozen thimbles, two dozen pairs scissors, one 2½-point Mackinaw blanket for each man and woman over fifteen years of age; one thousand pounds iron, one hundred pounds steel; and in like manner in the first year for the permanent use of said tribes, and as their joint property, viz: seventy-five brood-mares and four stallions, three hundred milch cows and sixteen bulls, four yoke work-cattle with yokes and chains, ten work-mules or horses, twelve ploughs assorted sizes, seventy-five garden or corn hoes, twenty-five spades and four grindstones.

The stock enumerated above and the product thereof; and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with, without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said tribes, at and near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one wheelwright, one carpenter, one blacksmith, one principal school teacher, and as many assistant teachers as the President may deem proper to instruct said tribes in reading, writing, &c., and in the domestic arts upon the manual labor system. All the above named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President may deem advisable.

The United States will also erect suitable school-houses, shops and dwellings for the accommodation of the school teachers and mechanics above mentioned, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this sixteenth day of August, one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT, [SEAL.]
United States Indian agent.

For and in behalf of the Noi-ma.

OIS-NO, his x mark. [SEAL.]

For and in behalf of the Noc-ma.

CHIP-CHIN, his x mark. [SEAL.]

For and in behalf of the Y-lac-ca.

CHA-OO SA, his x mark. [SEAL.]

For and in behalf of the No-mc.

CHIP-CHO-CHI-CAS, his x mark. [SEAL.]

For and in behalf of the Noi-mc.

NEM-KO-DE, his x mark. [SEAL.]

For and in behalf of the Oy-lac-ca.

NUM-TE-RA-RE-MAN, his x mark. [SEAL.]

PAN-TE-LAS, his x mark. [SEAL.]

DO-HI-WI-CKA-LA, his x mark. [SEAL.]

NUM-TE-RE-MUCK, his x mark. [SEAL.]

Signed, sealed and delivered, after being fully explained in the presence of—

J. MCKINSTRY, *Brevet major U. S. Army,*
S. B. SHELDEN,
ALEXANDER LOVE.

(I). TREATY MADE AND CONCLUDED AT CAMP COLUS, ON SACRAMENTO RIVER. CALIFORNIA. SEPTEMBER 9, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE COLUS, WILLAYS, &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Colus, on the Sacramento river, California, between the United States Indian Agent. O. M. Wozencraft, of the one part, and the chiefs, captains and head men of the following tribes or bands, viz: Colus, Willays, Co-ha-na, Tat-nah, Cha, Doc-duc, Cham-net-co, Toc-de.

ARTICLE 1. The several tribes or bands above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression toward the government or citizens thereof, and to live on terms of peace and friendship among themselves, and all other Indians which are now or may come under the protection of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following districts of country in the State of California shall be and is hereby set apart forever, for the use and occupancy of the aforesaid tribes or bands, to-wit: commencing on the east bank of the Sacramento river, at a point where the northern line of Sutter's claim is said to strike said river, running out in said line in an easterly direction three miles; thence in a southeasterly direction fifteen miles to a point within three miles of the Sacramento river; from said point in a line due west to the Sacramento river, and from said point up said river to the point of beginning. It is furthermore understood and agreed upon by both parties that the tribes or bands of Indians living upon the adjacent coast range, on the Sacramento river from the mouth of Stone creek to the junction of Feather and Sacramento rivers, and on Feather river to the mouth of Yuba river, shall be included in the said reservation; and should said bands not come in, then the provisions, &c., as set apart in this treaty, to be reduced in a ratio commensurate with the numbers signing the treaty. *Provided*, That there is reserved to the United States government the right of way over any portion of said territory, and the right to establish and maintain any military post, public building, school-house, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence while removing to and making allotments upon the said reservation, the United States, in addition to the few presents made to them at this council, will furnish them, free of charge, with two hundred and fifty (250) head of beef-cattle to average in weight five hundred (500) pounds, seventy-five (75) sacks flour one hundred (100) pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, (to be divided among them by the agent according to their respective numbers and wants,) during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy; one linsey gown for each woman and girl, one thousand yards calico, and two hundred and fifty yards brown sheeting, ten pounds Scotch thread and five hundred needles, three dozen thimbles and one dozen pairs of scissors, one two and a half point Mackinaw blanket for each man and woman over fifteen years of age; five hundred pounds iron and fifty pounds steel; and in like manner in the first year for the permanent use of said tribes, and as their joint property, viz: forty brood-mares and three stallions, one hundred and fifty milch cows and eight bulls, two yoke of work cattle with yokes and chains, five work mules or horses, eleven ploughs assorted sizes, forty-five garden or corn hoes, thirteen spades, and two grind-stones. Of the stock enumerated above, and the product thereof, no part or

ortion shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.

ART. 6. The United States will also supply and settle among said tribes, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said tribes, in reading, writing, &c., and in the domestic arts upon the manual labor system; all the above named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school houses, shops and dwellings for the accommodation of the schools, teachers and mechanics above mentioned, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and fixed their seals, this ninth day of September, in the year of our Lord one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT,
United States Indian Agent.

For and in behalf of the Colus.

SCI-OAC, his x mark. [SEAL.]

For and in behalf of the Willays.

HO-OAK, his x mark. [SEAL.]

For and in behalf of the Co-he-na.

LOUIS, his x mark. [SEAL.]

For and in behalf of the Tat-nah.

HOO-KA-TA, his x mark. [SEAL.]

For and in behalf of the Cha.

LA-LOOK, his x mark. [SEAL.]

For and in behalf of the Doc-duc,

MI-KA-LA, his x mark. [SEAL.]

For and in behalf of the Cham-met-co.

WI-TE-BUS, his x mark. [SEAL.]

For and in behalf of the Toc-de.

CO-NE, his x mark. [SEAL.]

Signed, sealed, and delivered, after being fully explained, in presence of—
THOMAS WRIGHT, *Second Lieutenant, 2d Infantry, Commanding escort.*
C. D. SEMPLE.

(J.) TREATY MADE AND CONCLUDED AT THE FORK OF THE COSUMNES RIVER, SEPTEMBER 18, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE CU-LU, YAS-SI, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at the fork of Cosumnes river, between the United States Indian Agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes, viz: Cu-lu, Yas-si, Loc-lum-ne, and Wo-pum-nes.

ARTICLE 1. The several tribes or bands above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof.

and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may come under the protection of the United States; and furthermore bind themselves to conform to, and be governed by the laws and regulations of the Indian Bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of country in the State of California shall be and is hereby set apart forever for the sole use and occupancy of the aforesaid tribe of Indians, to wit: commencing at a point on the Cosumnes river, on the western line of the county, running south on and by said line to its terminus, running east on said line twenty-five miles, thence north to the middle fork of the Cosumnes river, down said stream to the place of beginning; to have and to hold the said district of country for the sole use and occupancy of said Indian tribes forever. *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school-houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence, while removing to and making their settlement upon the said reservation, the United States, in addition to the few presents made them at this council, will furnish them, free of charge, with five hundred (500) head of beef cattle, to average in weight five hundred (500) pounds, two hundred (200) sacks of flour, one hundred (100) pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be divided among them by the agent, according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz: one pair of strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, four thousand yards of calico and one thousand yards brown sheeting, forty pounds Scotch thread, two dozen pairs of scissors, eight dozen thimbles, three thousand needles, one two and a half point Mackinaw blanket for each man and woman over fifteen (15) years of age, four thousand pounds of iron and four hundred pounds of steel, and in like manner in the first year, for the permanent use of the said tribes, and as their joint property, viz: seventy-five brood mares and three stallions, three hundred milch cows and eighteen bulls, twelve yoke of work cattle with yokes and chains, twelve work mules or horses, twenty-five ploughs, assorted sizes, two hundred garden or corn hoes, eighty spades, twelve grindstones. Of the stock enumerated above, and the product thereof, no part or portion shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said tribes, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits, one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said tribes in reading, writing, &c., and in the domestic arts, upon the manual labor system; all the above-named workmen and teachers to be maintained and paid by the United States for the period five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school-houses, shops and dwellings, for the accommodation of the school teachers and mechanics above specified, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals this eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-one.

O. M. WOZENCRAFT,
United States Indian Agent.

For and in behalf of the Cu-lu.

MI-ON-QUISH, his x mark. [SEAL.]

For and in behalf of the Yas-si.

SAN-TEA-GO, his x mark. [SEAL.]

For and in behalf of the Loc-lum-ne.

POL-TUCK, his x mark. [SEAL.]

For and in behalf of the Wo-pum-nes.

HIN-COY-E, his x mark. [SEAL.]

MAT-TAS, his x mark. [SEAL.]

HOL-LOH, his x mark. [SEAL.]

BOY-ER, his x mark. [SEAL.]

Signed, sealed and delivered, after being fully explained, in presence of—

FLAVEL BELCHER.

J. B. MCKINNIE.

WILLIAM RHOAD.

(K.) TREATY MADE AND CONCLUDED AT THE VILLAGE OF TEMECULA, STATE OF CALIFORNIA, JANUARY 5, 1852, BETWEEN THE UNITED STATES INDIAN AGENT, O. M. WOZENCRAFT, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE SAN LOUIS REY, KAH-WE-AS, AND THE CO-COM-CAH-RAS TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at the village of Temecula, California, between the United States Indian Agent, O. M. Wozencraft, of the one part, and the captains and head men of the following nations, viz: The nation of San Louis Rey Indians, the Kah-we-as, and the tribe of Co-com-cah-ras.

ARTICLE 1. The several nations above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said nations of Indians acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States; and furthermore bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said nations, it is hereby stipulated and agreed that the following district of country in the State of California shall be and is hereby set apart forever, for the sole use and occupancy of the aforesaid nations of Indians, still reserving to the government of the United States all minerals found thereon, to wit: commencing at the southwest corner of the San Jacinto grant, and running along the southern and eastern line of the same to the San Geronimo grant; thence running along the southern and eastern line of the same to the northeastern corner thereof; thence due east to the eastern base of the Sierra Nevada mountain; thence on a southerly straight line in the general direction of the base of said mountain to a point due east of the northeastern corner of the grant of San Jose del Valle; thence due west to said corner; thence along the northeastern line of the same to the northwestern corner; thence on a direct line to the southern corner of the grant of Temecula; thence running around said grant, including it, by west, north and east, to its northeastern corner, and from thence on a straight line to the place of beginning. To have and to hold the said district of country for the sole use and occupancy of said Indian nations forever: *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and main-

tain any military post or posts, public buildings, school-houses, houses for agents, teachers, and school purposes, and such others as they may deem necessary for its uses or the protection of the Indians. The said nations and their tribes, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said nations of Indians in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them, free of all charge, with two thousand five hundred head of beef-cattle to average in weight five hundred pounds, three hundred and fifty sacks of flour of one hundred pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said nations in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, (to be divided among them by the agent according to their respective numbers and wants,) during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy; one linsey gown for each woman and girl; seven thousand yards calico, seventeen hundred yards of brown sheeting, seventy pounds Scotch thread, four dozen pairs of scissors, fourteen dozen thimbles, five thousand needles, one two and a half point Mackinaw blanket for each man and woman over fifteen years of age; seven thousand pounds of iron and six thousand pounds of steel; and in like manner in the first year for the permanent use of said tribes, and as their joint property, viz: one hundred and thirty brood-mares and seven stallions, six hundred young cows, thirty-six bulls, twenty yoke of working oxen with yokes and chains, twenty work mules or horses, forty-two ploughs, assorted sizes, three hundred and forty corn hoes, one hundred and forty spades, and twenty grindstones. Of the stock enumerated above, and the product thereof, no part or portion shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said nations, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said nations in reading, writing, &c., and in the domestic arts upon the manual labor system; all the above named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school houses, shops and dwellings for the accommodation of the school-teachers, mechanics, agriculturists and assistants above specified, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this fifth day of January, in the year of our Lord one thousand eight hundred and fifty-two.

O. M. WOZENCRAFT. [SEAL]
United States Indian Agent.

For and in behalf of the San Luis Rey Indians.

PEDRO, (Ka-wa-wish) of the Mission, his x mark.	[SEAL]
CISTO, (Go-no-nish) of Las Flores, his x mark.	[SEAL]
BICENTE, (Poo-clow) of Buena Vista, his x mark.	[SEAL]
PABLINO, (Coo-hac-ish) of Pala, his x mark.	[SEAL]
FRANCISCO, (Pah-hoo-vole) of Pauna, his x mark.	[SEAL]
JOSE, (Cah-lac) of El Potrero, his x mark.	[SEAL]
CALISTRO, (Chah-ewal-ish) of Yah-peat-cha, his x mark.	[SEAL]
SANTIAGO, (Yu-loke) of La Joya, his x mark.	[SEAL]
PEDRO, (Pal-e-gish) of La Puerta, his x mark.	[SEAL]
BRUNO, (Cwah-sl-cat) of Puerta Cruz, his x mark.	[SEAL]
YSIDRO, (To-sho-vvul) of Tovin, his x mark.	[SEAL]
CERVANTES, (Ca-hal) of Ahuanga, his x mark.	[SEAL]
LAURLANO, (Cah-par-ah-pish) of Temecula, his x mark.	[SEAL]
JOSE NOCA, (Chah-gah-lang-ish) of Agua Caliente, his x mark.	[SEAL]
JOSE YGNACIO, (To-sh-muh-ken-na-wish) of San Ysidro, his x mark.	[SEAL]

For and in behalf of the Kah-wé-as nation of Indians.

JUAN ANTONIO, (Coos-woot-na) chief, his x mark. [SEAL.]
LEONARDO, (Parlewit) of the people of Razon, his x mark. [SEAL.]

For and in behalf of the people of Too-ca.

FRANCISCO JAVIEL, (—) of Tierra Seca, his x mark. [SEAL.]
JOSE, (Coos-pa-om-nu-it) of Pah-nuc-say, the country of Cabezon,
his x mark. [SEAL.]
JUAN, (Kah-we-a) of Pal-se-wish, his x mark. [SEAL.]
GINIO, (—) of Wah-ne-pe-ah-pa, his x mark. [SEAL.]
YLARIO, (Sahtoo) of Wah-high-na, his x mark. [SEAL.]
TEODORO, (Chu-cal) alcalde of Juan Antonio and of Cah-be-nish,
or Palma Seca, his x mark. [SEAL.]
YGNACIO, (Chin-gal) of the people of Toro of Pal-kay-witch-ish,
or Agua Corta, his x mark. [SEAL.]
JUAN BAUTISTA, (Sah-at) of Pow-ky, his x mark. [SEAL.]
GERONIMO, (—) of Co-ro-vang-ang, his x mark. [SEAL.]
VICTORIANO, (Kwe-vish) of Sow-wah-wah, his x mark. [SEAL.]

For and in behalf of the people or tribe of Cocom-cah-ras, alias Serranos.

EHETERIO, (—) of Maronga, his x mark. [SEAL.]

Signed, sealed and delivered, after being fully explained, in the presence of—

J. J. WARNER,
G. WILLIAMS,
L. D. VINSONHALER,
R. SACKETT,
J. HAMILTON, *Secretary.*

ADDENDA.—In case the government of the United States and the actual proprietor of the Temecula grant cannot agree upon its purchase, the said government agrees to add some other portion of territory of equal extent to the above described Indian grant.

O. M. WOZENCRAFT,
United States Indian Agent.

J. J. WARNER,
L. D. VINSONHALER, } *Witnesses.*
G. WILLIAMS,
R. SACKETT, }

(L.) TREATY MADE AND CONCLUDED AT THE VILLAGE OF SANTA YSABEL, CALIFORNIA, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CAPTAINS AND HEAD MEN OF THE NATION OF DIEGUINO INDIANS, JANUARY 7, 1852.

A treaty of peace and friendship made and concluded at the village of Santa Ysabel, California, between the United States Indian agent, O. M. Wozencraft, of the one part, and the captains and head men of the nation of Dieguino Indians, of the other part.

ART. 1. The several tribes of the abovementioned nation do acknowledge the United States to be the sole and absolute sovereigns of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said nation of Indians and the several tribes thereof, acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States; and, furthermore, bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said nations it is hereby stipulated and agreed that the following district of country, in the State of California, shall be and is hereby set apart forever, for the sole use and occupancy of the aforesaid nation of Indians, still reserving to the government of the United States all minerals found thereon, to wit: commencing at the southern line of the State at the eastern base of the Sierra Nevada mountain and on the desert, and running along the base northerly to the southeastern corner of the reservation set apart for the Kah-we-as, San Luis, and Co-con-cah-ra nations of Indians, thence following the southern lines of the same to the northwestern corner of the grant of the San Jose del Valle, thence following the boundaries thereof by south and east to the southeastern corner of it, thence on a right line to the northwestern corner of the San Felipe grant, thence on the western line of the same to the southwestern corner thereof, thence southerly to the southern line of the State at a point twenty miles from the place of beginning, thence along said southern line to the place of beginning: To have and to hold the said district of country for the sole use and occupancy of the said Indian nation forever: *Provided*, that there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school-houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians.

The said nations and tribes and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To the said nation of Indians, in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them, free of all charge, one thousand eight hundred head of beef-cattle, to average in weight five hundred pounds, three hundred and fifty sacks of flour of one hundred pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said nation in acquiring the arts and habits of civilized life, the United States will also furnish them the following articles, to be divided among them by the agent according to their respective numbers and wants in the different tribes, during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, five thousand five hundred yards of calico, three thousand yards of brown sheeting, sixty pounds Scotch thread, four dozen pairs of scissors, fourteen dozen thimbles, five thousand needles, one 2½-point Mackinaw blanket for each man and woman over fifteen years of age; six thousand pounds of iron and five thousand five hundred pounds of steel; and in like manner in the first year for the permanent use of said nation, and as the joint property of the several tribes thereof, viz: one hundred and twenty brood-mares and six stallions, five hundred young cows and thirty bulls, fifteen yoke working oxen with yokes and chains, sixteen work-mules or horses, thirty-two ploughs assorted sizes, and sixteen grindstones, and the necessary seeds of various kinds.

The stock enumerated above and the product thereof; and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with, without the consent and direction of the agent.

ART. 6. The United States will also employ and settle among said nation, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one wheelwright, one carpenter, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said nations in reading, writing, &c., and in the domestic arts upon the manual-labor system. All the above-named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable.

The United States will also erect suitable school-houses, shops and dwellings for the accommodation of the school teachers, mechanics, agriculturists and assistants above specified, and for the protection of the public property.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this seventh day of January, one thousand eight hundred and fifty-two.

O. M. WOZENCRAFT, [SEAL.]
United States Indian agent.

For and in behalf of the Dieguino Indians.

SANTIAGO, of Ha-coom, his x mark.	[SEAL.]
KWA-PI, of Ta-cah-tay, his x mark.	[SEAL.]
SOLDADO, of Matlrom, his x mark.	[SEAL.]
NE-CAH, by Coo-LIM, of Wah-tl, his x mark.	[SEAL.]
SURDO, of Sa-quan, his x mark.	[SEAL.]
AT-CHU-CAL, of Ha-soo-malc, his x mark.	[SEAL.]
TAH-CA-PAN, of Coquilt, his x mark.	[SEAL.]
LEANDRO, of San Diego mission, his x mark.	[SEAL.]
TADEO, of San Dieguito, his x mark.	[SEAL.]
LAZARO, of Santa Ysabel, his x mark.	[SEAL.]
TOMAS, of Santa Ysabel, his x mark.	[SEAL.]
AS-SO-TORE, of How-wee Valcito, his x mark.	[SEAL.]
PANTHO, of San Pascual, his x mark.	[SEAL.]
JOSE APAN, of To-co-mac, his x mark.	[SEAL.]
JUAN PABLO, of Ca-ma-jal, his x mark.	[SEAL.]
MATEO (Co-nu-po-ip) of Tah-wee, his x mark.	[SEAL.]
LOENZO (Cho-lo-pe) of Prickaway, his x mark.	[SEAL.]
TAMOUROO, of Too-weal, his x mark.	[SEAL.]
HEPERERA, of Mel-co-to-nac, San Felipe, his x mark.	[SEAL.]
ELOO, of Mat-mak, La Puerta, his x mark.	[SEAL.]
OON-AH-OON, of Lu-ah-pl, his x mark.	[SEAL.]
FELIPE (Am-coo-si) of Matajuui, his x mark.	[SEAL.]

Signed, sealed and delivered, after being fully explained, in presence of—

DELAVIN DAVIDSON, *Captain 2d infantry.*

E. MURRAY, *Lieutenant 2d infantry.*

J. J. WARNER.

ADDENDA.—From the above district of country, set apart for the Indians, is reserved to the present owner thereof, the Hon. J. J. Warner, one square league at Aqua Caliente, to be selected by him for the purpose of improving the warm springs at said place, in case the said ownership be adjudicated in his (Warner's) favor by the land commissioners of California.

J. HAMILTON,
Secretary of the Indian agency.

(M.) TREATY MADE AND CONCLUDED AT CAMP FREMONT, STATE OF CALIFORNIA, MARCH 19, 1851, BETWEEN REDICK MCKEE AND OTHERS, COMMISSIONERS ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE SI-YAN-TE, ETC., ETC., TRIBES OF INDIANS.

A treaty made and concluded on the nineteenth day of March, in the year eighteen hundred and fifty-one, at Camp Fremont, near the little Mariposa river, in the State of California, between Redick McKee, George W. Barbour, and Oliver M. Wozencraft, commissioners appointed by the President of the United States to treat with the various tribes of Indians in the State of California, of the one part, and the chiefs, captains, and head men of the Si-yan-te, Pó-to-yun-te, Co-co-noon, Apang-as-se, Aplache, and A-wal-a-che tribes of Indians, of the other part.

ARTICLE 1. The said tribes of Indians severally acknowledge themselves to be under the jurisdiction, control and authority of the government of the United States, and as such, that they severally agree and pledge themselves to refrain in future from the commission of any act of hostility or aggression towards the government of the United States, or any of the citizens thereof, and to live on terms of peace and friendship, not only with the citizens of the United States, but with all Indian tribes.

ART. 2. The said tribes hereby severally relinquish, and forever quit claim to the government of the United States, all the right, title, claim, or interest, of

whatsoever character, that they, or either of them may have had, or now hold in and to any lands in the limits of the State of California, or the United States.

ART. 3. It is agreed between the contracting parties, that the district of land lying between the Merced and Tuolumne rivers, to wit: commencing at a point on the Merced river, opposite the mouth of a small stream emptying into said river, on the south side of said river, about one mile above what was formerly known as Ford's ferry, now known as Stone and Company's ferry; running thence a direct line to the Tuolumne river, striking or intersecting said river at the mouth of a gulch emptying into said river at a bend about two miles above Spark's old ferry, being at or near the foot of the first fall or rapids of said river, above said Spark's ferry; thence down the middle of said stream to a point one-half of one mile above Harr's ferry; thence a straight line across, so as to intersect the Merced river at a point about one-quarter of one mile above the present residence of Dr. Lewis, on said stream; thence up the middle of said Merced river to place of beginning; the said district, supposed to contain about four full townships of land, is hereby and shall be forever set apart and held for the occupancy of said tribes of Indians; and it is further stipulated, that said tribes shall have free access to all the country between the Merced and Tuolumne rivers, extending above said described district to the Sierra Nevada mountains, for the purpose of hunting and collecting fruits, nuts, &c.; but in no event shall they remove their women and children from the lands hereby set apart for their occupancy. The government of the United States reserving the right to establish a military post, and to erect the necessary buildings for an agent or other officers, within the limits of said land.

ART. 4. In further consideration of the aforesaid premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and two, it is agreed by the party of the first part to supply said tribes jointly with one hundred head of good beef steers, and one hundred sacks or barrels of flour, each year.

ART. 5. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly and free of charge by the government of the United States, the following articles of property, to be divided among said Indian tribes, according to their respective numbers, to wit: ten brood mares and one jack or stallion, twenty-five cows and one bull, five large and five small ploughs, ten sets of gear or harness complete, one hundred axes, one hundred hatchets, one hundred hoes, ten mattocks or picks, all necessary seeds for sowing and planting for one year, eight hundred pounds of iron, two hundred pounds of steel, two hundred pairs of two and a half point blankets, two flannel shirts and two pairs of coarse pants for each man and boy, one linsey gown for each woman and girl, two thousand yards of brown sheeting, two thousand yards of calico, twenty-five dollars worth of thread, needles, buttons, scissors, &c.

ART. 6. The United States agree further to furnish a man skilled in the art of farming, to live among and instruct said tribes, and such others as may be placed under his supervision, in the business of farming, one blacksmith, one man skilled in working in wood, (wagon maker or rough carpenter,) one superintendent, and such assistant school teachers as may be necessary, all to live among and work for, and teach said tribes and such other tribes as they may be required to work for and teach: said farmer, blacksmith, worker in wood and teachers to be supplied to said tribes as aforesaid, for the period of five years, and as long thereafter as the President of the United States shall deem advisable; a school-house and other necessary buildings for the accommodation of the persons named in this article to be erected at the cost of the government of the United States.

ART. 7. It is further agreed between the parties, that for any violence done by individuals to the person or property of any citizen of the United States, by an Indian or Indians, of either of said tribes, or if done by a citizen or citizens of the United States, to the person or property of any of said tribes, or any of the members thereof, no personal retaliation shall be attempted, but the party aggrieved shall apply to the civil authorities of the country for a proper redress of their grievances; each party pledging themselves to bring, if possible, all guilty offenders to justice, by delivering them up to the officers of the law when in their power.

ART. 8. These articles of agreement to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the said parties have hereunto signed their names and affixed their seals upon the day and date above written.

REDICK MCKEE, [SEAL.]
G. W. BARBOUR, [SEAL.]
O. M. WOZENCRAFT. [SEAL.]

For and in behalf of the Si-yan-te tribe.

TRAI-PAX-E, chief, his x mark. [SEAL.]
HABITO, his x mark. [SEAL.]
CO-TOS, his x mark. [SEAL.]
E-LI-UM, his x mark. [SEAL.]
AN-GOT, his x mark. [SEAL.]
HO-MO-LUCK, his x mark. [SEAL.]
PE-TE-LA, his x mark. [SEAL.]
MA-LA-TIA, his x mark. [SEAL.]
A-WAS-SA, his x mark. [SEAL.]

For and in behalf of the Po-to-yun-te.

BAU-TIS-TA, chief, his x mark. [SEAL.]
IA-WACK-NO, his x mark. [SEAL.]
LE-KEN-A, his x mark. [SEAL.]
US-SA, his x mark. [SEAL.]
FELIZ, his x mark. [SEAL.]
MAN-TU-PA, his x mark. [SEAL.]
WA-LIL, his x mark. [SEAL.]
HE-WO-WEE, his x mark. [SEAL.]
CHUCUS, his x mark. [SEAL.]

For and in behalf of the Co-co-noon.

MEN-O-LO, chief, his x mark. [SEAL.]
MAN-LIN-O, his x mark. [SEAL.]
JO-SE, his x mark. [SEAL.]
WAS-SAL-IS-CO, his x mark. [SEAL.]
JOSE VEN-TU-RA, his x mark. [SEAL.]

For and in behalf of the A-wal-a-che.

CY-PRI-ANO, chief, his x mark. [SEAL.]
WOO-MA-ACK, his x mark. [SEAL.]
AT-CA-NA, his x mark. [SEAL.]
AC-TON, his x mark. [SEAL.]
IO-TO-CO-NO, his x mark. [SEAL.]
HA-MA-CHA, his x mark. [SEAL.]

For and in behalf of the A-pang-as-se, or Appang-assa, tribe.

NU-MAS-E-CA-NO, chief, his x mark. [SEAL.]
CO-NO-TO, his x mark. [SEAL.]
PON-SIL-LO, his x mark. [SEAL.]
LO-PE-AC, his x mark. [SEAL.]

For and in behalf of the Aplache tribe.

HAW-HAW, chief, his x mark. [SEAL.]
OU-TU-PI-TU, his x mark. [SEAL.]
IN-TE-A-TA, his x mark. [SEAL.]
TAS-SE-O, his x mark. [SEAL.]
OU-MA, his x mark. [SEAL.]
WA-PA-TA, his x mark. [SEAL.]

Signed, sealed, and delivered, after being fully explained, in presence of—

JOHN MCKEE, Secretary.

ADAM JOHNSON, Agent.

H. S. BURTON, Interpreter.

E. D. KEYES, Captain third artillery, commanding escort.

I. H. LENDRUM, First Lieutenant 3d artillery.

J. HAMILTON, Lieutenant 3d artillery.

T. MOORE, Lieutenant, 2d infantry.

H. G. J. GIBSON, Second Lieutenant 3d artillery.

N. H. McLEAN, Second Lieutenant 2d infantry.

JOHN E. DURIVAGE.

THOS. J. ROACH.

(N.) TREATY MADE AND CONCLUDED AT CAMP BARBOUR, ON THE SAN JOAQUIN RIVER, STATE OF CALIFORNIA, APRIL 29, 1851, BETWEEN REDICK MCKEE AND OTHERS, COMMISSIONERS ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE HOW-ECH-EES, &C., &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Barbour, on the San Joaquin river, California, between Redick McKee, George W. Barbour, and O. M. Wozencraft, commissioners thereto specially appointed, on the part of the United States, and the undersigned chiefs, captains and head men of the tribes or bands of Indians now in council at this camp, known as the How-ech-ees, Chook-cha-nees, Chow-chil-lies, Po-ho-nee-chees and Nook-choos, which five tribes or bands acknowledge Nai-yak-quas as their principal chief; also the Pit-cat-chees, Cas-sons, Toom-nas, Tallin-chees and Poskesas; which five tribes or bands acknowledge *Tom-quit* as their principal chief; also the Wa-cha-ets, Itachees, Cho-e-nem-nees, Cho-ki-men-as, We-mal-chees and No-to-no-tos, which six tribes or bands acknowledge *Pas-qual* as their principal chief.

ART. 1. The said tribes or bands acknowledge themselves jointly and severally, under the exclusive jurisdiction, authority and protection of the United States; and hereby bind themselves to refrain hereafter from the commission of all acts of hostility, or aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may hereafter come under the protection of the United States.

ART. 2. Lest the peace and friendship hereby established between the United States and the said tribes should be interrupted by the misconduct of individuals, it is expressly agreed that, for injuries on either side, no private revenge or retaliation shall take place or be attempted; but instead thereof, complaints shall be made by the party aggrieved to the other through the Indian agent of the United States in their district, whose duty it shall be to investigate, and, if practicable, adjust the difficulty; or, in case of acts of violence being committed upon the person or property of a citizen of the United States by an Indian or Indians belonging to or harbored by either of said tribes or bands, the party or parties charged with the commission of the crime shall be promptly delivered up to the civil authorities of the State of California for trial; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes, the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

ART. 3. The said tribes or bands hereby jointly and severally relinquish, and forever quit claim to the United States all the right, title, claim or interest of any kind they or either of them have or ever had to lands or soil in California.

ART. 4. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of country in the State of California, shall be, and is hereby, set apart forever for the sole use and occupancy of the aforesaid tribes of Indians, to wit:—Beginning at a point in the middle of the Chonchille river, near an old Indian *rancheria*, called *Ta-ha-leel*, and immediately at the junction of the two first main forks of said river, in the foothills; running thence a straight line in a southwesterly direction, to the top of the point of the Table mountain, on the San Joaquin river, being the first high hill or mountain above and adjoining the valley in which the camp known as camp Barbour is established, on the south side of the San Joaquin river, continuing thence on the top of said mountain a straight line in the same southwesterly direction to the eastern base of what is known as the *lone* or *lost* mountain, on the south side of King's river; continuing thence a line in the same direction to the middle of the Cowier river, generally known as the first of the Four creeks; thence down the middle of said stream to a point fifteen miles in a straight line from where the first line strikes it, thence back to the middle of the Chonchille river to a point fifteen miles distant, on a straight line from the starting point, as aforesaid, on said river; the said line from the Cowier river, or first of the Four creeks, to be so run to cross King's, San Joaquin, and Fresno rivers at the distance of fifteen miles in a straight line from where the first line herein mentioned crosses each one of said rivers, and from where the last mentioned line strikes the Chonchille river up the middle of said stream to the beginning: To have and to hold the said district of country for the sole use and occupancy of said Indian tribes for—

ever: *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school houses, houses for agents, teachers, and such others as they may deem necessary for their use, or the protection of the Indians; *And provided further*, That said tribes of Indians, or any portion of them, shall at all times have the privilege of the country east of the aforesaid district, and between the waters of the Conchille and Cowier rivers (or first of the Four creeks) to the foot of the Sierra Nevada mountains, to hunt and to gather fruits, acorns, &c.; but in no event are they or any of them to remove or settle their families beyond the limits of the first described district or boundary of land without the permission of the government of the United States through their duly authorized agent; and also that the said tribes shall never sell or dispose of their right or claim to any part thereof, except to the United States, nor shall they ever lease to, or permit white men to settle, work, or trade upon any part thereof, without the written permission of the Indian agent for the district. And it is also expressly understood that the *monas* or *wild portion* of the tribes herein provided for, which are still out in the mountains, shall, when they come in, be incorporated with their respective bands, and receive a fair and equal interest in the land and provisions hereinafter stipulated to be furnished for the whole reservation; and the tribes above named pledge themselves to use their influence and best exertions to bring in and settle the said *monas* at the earliest possible day; and when the Yo-semi-te tribe come in they shall in like manner be associated with the tribes or bands under the authority or control of *Nai-yak-quan*.

ART. 5. To aid the said tribes or bands in their subsistence, while removing to and making their settlement upon the said reservation, the United States, in addition to the numerous and valuable presents made to them at this council, will furnish them free of charge, with five hundred head of beef cattle, (to average in weight five hundred pounds) and two hundred and sixty sacks of flour, (one hundred pounds each) during each of the years 1851 and 1852, to be divided among them by the agent, according to their respective numbers.

ART. 6. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be divided among them by the agent, according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz:

Two pairs strong pantaloons and two red flannel shirts for each man and boy, one linsey gown for each woman and girl; three thousand yards calico, and three thousand yards brown sheetings, thirty pounds Scotch thread, six dozen pairs scissors, assorted, one gross thinblies and five thousand needles, assorted, one two and a half-point Mackinaw blanket for each man and woman over fifteen years of age; three thousand pounds iron, and five hundred pounds steel. And in like manner, in the first year, for the *permanent use* of the said tribes, and as their joint property, viz:

Seventy-five brood mares and three stallions, one hundred and fifty milch cows and three bulls, twelve yoke of work cattle, with yokes, chains, &c., twelve work mules or horses, thirty ploughs, (ten large and twenty small) thirty set harness for plough horses or mules; *seeds* of all proper kinds, for planting and sowing; one hundred chopping axes, one hundred hatchets, thirty mattocks or picks, three hundred garden or corn hoes, one hundred spades, fifteen grind-stones, three United States flags, (one for each principal chief).

The stock enumerated above, and the product thereof, shall be marked or branded with such letters as will at all times designate the same to be the property of the said tribes, and no part or portion thereof shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.

ART. 7. The United States will also employ and settle among said tribes, at or near their towns or settlements, one practical farmer, who shall act as superintendent or director of agricultural operations, to reside at some central point, and to have two assistants, also men of practical knowledge and industrious habits; one carpenter or worker in wood, to direct and aid in the construction of houses, repairing plows, &c.; one blacksmith, to reside at some central point; three principal school teachers, and as many assistant teachers as the President may deem proper, to instruct said tribes in reading, writing, &c., and in the domestic arts of sewing, housekeeping, &c., upon the manual-labor system; all the above-named workmen and teachers to be maintained and paid by the United

States, for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school houses, shops, and dwellings for the accommodation of the schools, teachers and mechanics above specified, and for the protection of the public property.

These articles to be binding on the contracting parties, when ratified and confirmed by the President and Senate of the United States.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this twenty-ninth day of April, in the year of our Lord one thousand eight hundred and fifty-one.

REDICK McKEE.	[SEAL.]
G. W. BARBOUR.	[SEAL.]
O. M. WOZENCRAFT.	[SEAL.]

For and in behalf of the How-ech-ees.

NAI-YAK-QUA, his x mark.	[SEAL.]
NO-CHEEL, his x mark.	[SEAL.]
CHAL-WAK-CHEE, his x mark.	[SEAL.]
PAR-SA, his x mark.	[SEAL.]
PO-YAI, his x mark.	[SEAL.]

For and in behalf of the Chook chanees.

CO-TUM-SI, his x mark.	[SEAL.]
TI-MOH, his x mark.	[SEAL.]
SA-WA-LAI, his x mark.	[SEAL.]
A-CHAT-A-NA, his x mark.	[SEAL.]
MI-E-WAL, his x mark.	[SEAL.]

For and in behalf of the Chow-chil-lies.

PO-HO-LEEL, his x mark.	[SEAL.]
E-KEENO, his x mark.	[SEAL.]
KAY-O-YA, his x mark.	[SEAL.]
A-PEM-SHEE, his x mark.	[SEAL.]
CHO-NO-HAL-MA, his x mark.	[SEAL.]

For and in behalf of the Po-ho-nee-chees.

PO-TOL, his x mark.	[SEAL.]
CHEE-KO, his x mark.	[SEAL.]
MOOCH-CAT-E, his x mark.	[SEAL.]
HO-HAS-SEE, his x mark.	[SEAL.]
COW-WAL, his x mark.	[SEAL.]

For and in behalf of the Nook-choos.

PAN-WACH-EE, his x mark.	[SEAL.]
KET-TA, his x mark.	[SEAL.]
MUL-LU-CE, his x mark.	[SEAL.]
TAW-WICH, his x mark.	[SEAL.]
WAL-LIN, his x mark.	[SEAL.]

For and in behalf of the Pit-ca-chees.

TOM-QUIT, chief, his x mark.	[SEAL.]
YA-KO-WAI, his x mark.	[SEAL.]
TOO-TRO-MI, his x mark.	[SEAL.]
CHO-LUL, his x mark.	[SEAL.]
NE-SA-PLO, his x mark.	[SEAL.]

For and in behalf of the Cas-sons.

DOMINGO-PEREZ, his x mark.	[SEAL.]
TOM-MAS, his x mark.	[SEAL.]
JOSE-ANTONIO, his x mark.	[SEAL.]

For and in behalf of the Toom-nas.

HAT-CHU-LOO, his x mark.	[SEAL.]
TAP-PA, his x mark.	[SEAL.]
PO-SHA, his x mark.	[SEAL.]

For and in behalf of the Tallinchees.

CHO-KETE, his x mark.	[SEAL.]
PAL-LO-KOOSH, his x mark.	[SEAL.]
HOW-IL-ME-NA, his x mark.	[SEAL.]
SO-K'UCH, his x mark.	[SEAL.]

For and in behalf of Pos-ke-sas.

KO-SHISH, his x mark.	[SEAL.]
KO-ITCH, his x mark.	[SEAL.]
COP-PI, his x mark.	[SEAL.]
WO-WAL, his x mark.	[SEAL.]

For and in behalf of the Wach-ets.

PAS-QUAL, chief, his x mark.	[SEAL.]
WA-KEEN, his x mark.	[SEAL.]
JOSE ANTONIO, his x mark.	[SEAL.]

For and in behalf of the Itachees.

WA-TOO, his x mark.	[SEAL.]
A-POR-TRIA, his x mark.	[SEAL.]
TO-NAI-CHEE, his x mark.	[SEAL.]

For and in behalf of the Cho-e-nem-nees.

WAU-TOE-KI, his x mark.	[SEAL.]
HO-LET-TEE, his x mark.	[SEAL.]
TA-WEEN, his x mark.	[SEAL.]

For and in behalf of the Cho-ki-men-as.

KO-HEEL, his x mark.	[SEAL.]
TRA-TRA-IT-SE, his x mark.	[SEAL.]
WOH-TON, his x mark.	[SEAL.]

For and in behalf of the No-to-no-tos.

PAS-QUAL, his x mark.	[SEAL.]
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For and in behalf of the We-mal-ches.

PAS-QUAL, his x mark.	[SEAL.]
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Signed, sealed and delivered, after being fully explained, in presence of—

JOHN MCKEE, *Secretary.*

JOHN HAMILTON, *Interpreter.*

ADAM JOHNSTON, *Agent.*

E. D. KEYES, *Captain third artillery, commanding escort.*

W. S. KING, *Assistant surgeon, U. S. Army.*

I. M. LENDRUM, *First Lieutenant 3d artillery.*

H. G. J. GIBSON, *Second Lieutenant 3d artillery.*

N. H. McLEAN, *Second Lieutenant 2d infantry.*

I. F. A. MARR.

(O.) TREATY MADE AND CONCLUDED AT CAMP LU-PI-YU-MA, AT CLEAR LAKE, STATE OF CALIFORNIA, AUGUST 20, 1851, BETWEEN REDICK MCKEE, INDIAN AGENT ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE CA-LA NA-PO, HA-RI-NA-PO, ETC., ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Lu pi-yu-ma, on the south side of Clear Lake, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the undersigned chiefs, captains and head men of the tribes or bands of Indians now in council at this camp, known as the Ca-la-na-po tribe, represented by the chief, Ju-llo and captains; Ha-bi-na-po tribe, represented by the chief, Pri-e-to and his captains; Da-no-ha-bo tribe, represented by the chief, Ku-kee; Mo-ni-kal tribe, represented by the chief, Moh-shan and his captains; Che-com tribe, represented by the chief, Cal-i-a-him and his captains; How-ku-ma tribe, represented by the chief, Chi-bec and his captains; Cha-nel-kal tribe, represented by the chief, Con chu; and the Me-dam-a-dec tribe, represented by the chief, Co-e-u-e.

ARTICLE 1. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority, and protection of the United States, and hereby bind themselves to refrain hereafter from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may hereafter come under the protection of the United States.

ART. 2. Lest the peace and friendship established between the United States and the said tribes should be interrupted by the misconduct of individuals, it is expressly agreed that for injuries received on either side, no private revenge

or retaliation shall take place, or be attempted; but instead thereof, complaint shall be made by the party aggrieved to the other, through the Indian agent of the United States in their district, whose duty it shall be to investigate, and, if practicable, adjust the difficulty; or in case of acts of violence being committed upon the person or property of a citizen of the United States by an Indian or Indians belonging to or harbored by either of said tribes or bands, the party or parties charged with the commission of the crime shall be promptly delivered up when demanded, to the civil authorities of the State of California for trial; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of tribes, the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

ART. 3. The said tribes or bands hereby jointly and severally relinquish, cede, and forever quit claim to the United States, all their right, title, claim, or interest of any kind, which they or either of them have to lands or soil in California.

ART. 4. To promote the permanent settlement and improvement of said tribes or bands, it is hereby stipulated and agreed on the part of the United States, that the following tract or district of land shall be appropriated and set apart as an Indian reservation, and the use and possession thereof forever guaranteed to the said tribes, their successors, and to such other tribes as the United States may hereafter remove from the valley of the Russian river or elsewhere, and settle thereupon, to wit: commencing at a point on Clear lake, where a spur from Mount McKee (heretofore called the Chemical mountain) juts into the same; thence along a line running southwardly over said mountain and over the hills behind the same to the summit level of the mountains dividing the Clear lake valley from the waters of the Rio Dolores; thence westwardly along the same and along the summit of those dividing said valley from the waters of Russian river, to where said mountains meet those dividing said valley from the waters of Eel river; thence along said ridge to a point where said last-mentioned mountains meet those dividing said valley from the waters of the Sacramento; thence along the summit of the same to a point due north of the place of beginning; thence south to the said point. Containing all that part of the valley of Clear lake lying westward of said Mount McKee, the habitable part of said tract being by estimation about twelve miles in length by about six miles in width, together with the exclusive right of fishing in that part of said lake included within the foregoing boundaries. It is however expressly understood and agreed that the United States reserves the right of way over said lands, and of using for farming purposes any quantity thereof not exceeding one thousand acres; also the right to establish such military posts, erect such buildings, and make such improvements for the accommodation of their agent and other officers or servants as the President may direct; also, that said tribes or bands shall never sell or alienate their right or claim to any part thereof, except to the United States, nor shall they ever lease to or permit white men to settle, work, or trade upon any part thereof without the written permission of the United States Indian agent for the district. And it is further understood and agreed that, if the tribe or band of Indians known as the Chemam-o-man-as, now living near the lower end of Clear lake, but not directly represented in this council, shall so desire, the said tribe or band may remove to, and settle upon said reservation without further stipulation, and thereby become entitled to a just proportion of the land and other benefits contemplated in this treaty, as fully, according to their numbers, as if they were present and parties to this compact.

ART. 5. To aid the said tribes or bands in their subsistence with removing to and making their settlement upon the said lands, the United States, in addition to the presents of ten head of beef cattle, three sacks of bread, and sundry clothing, made to them at this council, will also furnish them, free of charge, at or near Vallejo, or elsewhere, as may be most convenient, with one hundred (100) head of beef-cattle, to average in weight five hundred pounds net, and two hundred (200) sacks of flour of fifty pounds each in all ten thousand pounds, during the present year (1851), and a like quantity in each of the years 1852 and 1853, to be divided among them by the agent according to their respective numbers.

ART. 6. As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, to be

divided among them by the agent according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz: four hundred pairs strong pantaloons, four hundred cotton (hickory) shirts, three hundred linsey gowns, assorted, generally small, three thousand yards calico, three thousand yards brown sheeting, thirty pounds Scotch thread, six dozen pairs scissors, assorted, twelve dozen thimbles, five thousand needles, assorted, five hundred pairs two and a half point Mackinaw blankets, one thousand pounds iron, two hundred pounds steel; and in like manner in the first year for the permanent use of the said tribes, and as their joint property, viz: twenty-five brood mares and one stallion, fifty milch cows and two bulls, eight yoke of work-cattle with yokes, chains, &c., two large wagons, eight pair work-mules or horses, (one pair for each tribe) four breaking ploughs, eight small ploughs, eight sets harness for plough horses or mules, seeds of all proper kinds for planting and sowing, one hundred chopping axes, small size, with handles, one hundred axes, half-size, with handles, twelve mattocks, thirty dozen butcher knives, two hundred garden or corn hoes, fifty heavy spades, four grindstones, one United States flag. The stock enumerated above and the product thereof, shall be marked or branded "U. S." and with such other letter or letters as will at all times designate the same to be the property of the said tribes; and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with without the assent and direction of the agent.

ART. 7. The United States will also employ and settle among said tribes, at or near their principal town or settlement, one practical farmer, who shall act as superintendent or director of all agricultural operations, to reside among them, with two assistants, all of practical knowledge and industrious habits; one carpenter or worker in wood, to direct and aid in the construction of houses, repairing ploughs, wagons, etc.; one blacksmith; one principal school-teacher, with two male and two female assistant teachers to instruct said tribes in reading and writing the English language, &c., upon the manual-labor system, as well as in the domestic arts of housekeeping; all the above-named teachers, farmers and mechanics to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The government of the United States will also erect suitable school-houses, dwellings, and shops for the accommodation of the teachers, farmers, and mechanics above specified, and for the protection of the public property.

ART. 8. These articles to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States.

In testimony whereof, the parties have hereunto signed their names and affixed their seals this twentieth day of August, anno Domini eighteen hundred and fifty-one.

REDICK McKEE, [SEAL.]
United States Indian Agent.

For and in behalf of the Ca-la-na-po tribe.

JU-LIO, his x mark, chief [SEAL.]
CHA-CO-DA-NO, his x mark. [SEAL.]
PE-BOR-QUOR-TO, his x mark. [SEAL.]
MAH-CO-ME-A, his x mark. [SEAL.]
KOY-WY-NOL-YO, his x mark. [SEAL.]
KAI-A-DAN-O, his x mark. [SEAL.]

For and in behalf of the Ha-bi-na-po tribe.

PRI-E-TO, his x mark, chief. [SEAL.]
CHEE-NO, his x mark. [SEAL.]
KAH-LOOSE, his x mark. [SEAL.]

For and in behalf of the Da-no-ha-bo tribe.

KU-KEE, his x mark, chief. [SEAL.]

For and in behalf of the Mo-al-kai tribe.

MOH-SHAN, his x mark, chief. [SEAL.]
YAH-TZA, his x mark. [SEAL.]
TEE-BEE, his x mark. [SEAL.]

For and in behalf of the Che-com tribe.

CAL-I-A-HIM, his x mark, chief. [SEAL.]
HAL-LE-TOC, his x mark. [SEAL.]
CO-TO-LO-YAH, his x mark. [SEAL.]
CHU-TE-YAN, his x mark. [SEAL.]

For and in behalf of the How-ku-ma tribe.

CHI-BEC, his x mark, chief.	[SEAL.]
SAC-CON, his x mark.	[SEAL.]
CHE-KAI, his x mark.	[SEAL.]

For and in behalf of the Cha-nel-kai tribe.

CON-CHU, his x mark, chief.	[SEAL.]
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For and in behalf of the Me-dam-a-dec tribe.

CO-E-U-E, his x mark, chief.	[SEAL.]
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Signed, sealed, and delivered, after being fully explained, in presence of—

JOHN MCKEE, *Secretary.*

Witnesses—

GEO. WHITEHOUSE.
 GEORGE GIBBS.
 E. D. SHIRLAND.
 H. W. WESSELS, *Brevet Major U. S. army, commanding escort.*
 J. M. ESTILL, *Maj. Gen. 2d div. Cal. militia.*
 F. D. KOHLES.
 M. H. N. KENDIG.
 W. A. CORNWALL.
 JAS. M. M. BROWN SMITH.
 T. F. W. PRICE.
 WALTER MACDONALD.

(P.) TREATY MADE AND CONCLUDED AT CAMP FERNANDO FELIZ, ON RUSSIAN RIVER, IN THE STATE OF CALIFORNIA, AUGUST 22, 1851, BETWEEN REDICK MCKEE, INDIAN AGENT, ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE SAI-NELL, YU-KI-AS, ETC., ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Fernando Feliz, on Russian River, California, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the undersigned chiefs, captains, and head men of the tribes or bands of Indians now in council at this camp, known as the Sai-nell tribe, represented by the chief Chas-kan and Captains; Yu-ki-as tribe, represented by the chief Ko-yo-to-was-sa and captains; Mas-su-ta-ka-ya tribe, represented by the chief Cal-pel-la and captains; Po-mo tribe, represented by the chief Chi-hem.

ARTICLE 1. The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves to refrain hereafter from the commission of all acts of hostility or aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may hereafter come under the protection of the United States.

ART. 2. Lest the peace and friendship hereby established between the United States and the said tribes should be interrupted by the misconduct of individuals, it is expressly agreed that, for injuries received on either side, no private revenge or retaliation shall take place or be attempted, but instead thereof complaint shall be made by the party aggrieved to the other, through the Indian agent of the United States, in their district, whose duty it shall be to investigate, and if practicable adjust the difficulty; or in case of acts of violence being committed upon the property or citizens of the United States by an Indian or Indians belonging to or harbored by either of said tribes or bands, the party or parties charged with the commission of the crime, shall be promptly delivered up, when demanded, to the civil authorities of the State of California for trial; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes, the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

ART. 3. The said tribes or bands hereby jointly and severally relinquish, cede, and forever quit claim to the United States, all their rights, title, claim, or interest of any kind which they or either of them have to lands or soil in California.

ART. 4. It is hereby further agreed by the said Indian tribes or bands, that at the expiration of one year from the execution of this treaty, or at such time previously, or thereafter, as the United States shall require, they will remove with their families and property from the lands they now occupy on Russian river, to the Indian reservation on Clear lake, made and reserved by the treaty concluded at Camp Lu-pi-yu-ma, on the 20th day of August, 1851, and there abide and remain; and it is stipulated and agreed on behalf of the United States, that the said government will defray the necessary expenses of such removal, which shall be conducted under the authority of the Indian agent, and that the said tribes shall thereupon receive and enjoy all the advantages and rights secured by said treaty to Indians removing thereto; and for the maintenance and support of said tribes, until they shall be in condition to maintain themselves; that is to say, during the present year (1851) the United States will furnish them with one hundred head of beef-cattle, and two hundred sacks of flour, equal to ten thousand pounds, and a like quantity of the same for two years after their said removal and settlement upon said reservation, and for their permanent use besides the provisions, clothing, &c. given them at this camp, such brood stock, farming implements, mechanics, instructors in agriculture and learning, as their numbers may, when ascertained, entitle them to, upon a fair and just equality with the Indians now residing on Clear lake, as stipulated in the aforesaid treaty of Camp Lu-pi-yu-ma; and it is expressly understood and agreed that the said tribes or bands are to observe, fulfill, and be governed by all and singular the requirements, stipulations, and articles of the said treaty of Lu-pi-yu-ma, as fully as if the same were incorporated and formally expressed in this treaty.

ART. 5. It is also agreed that until the United States shall have established a military post on said reservation, with a regular physician or surgeon attached thereto, the Indian agent shall be authorized and is hereby directed to employ at the expense of the United States, an experienced physician to reside on said reservation, attend to the sick among either whites or Indians, and especially to vaccinate the members of such tribes; and when said military post shall be established, the services of the surgeon thereto attached may be substituted by the agent for those of the physician first employed, allowing him therefor a reasonable compensation.

In testimony whereof, the parties have hereunto signed their names and affixed their seals this twenty-second day of August, anno Domini eighteen hundred and fifty-one.

REDICK MCKEE, [SEAL.]
United States Indian Agent.

For and in behalf of the Sal-nell tribe.

CHAS-KAN, his x mark.	[SEAL.]
OUS-TIN, his x mark.	[SEAL.]
CAL-VI-HA, his x mark.	[SEAL.]
KA-WA-LOW, his x mark.	[SEAL.]
SA-KEM, his x mark.	[SEAL.]
KE-YO-HOM, his x mark.	[SEAL.]
KA-E-SU-A, his x mark.	[SEAL.]
YO-KI-AM, his x mark.	[SEAL.]

For and in behalf of the Yu-ki-as tribe.

KO-YO-TO-WAS-SA, his x mark.	[SEAL.]
CAL-NO-YA, his x mark.	[SEAL.]
KA-A-TAN, his x mark.	[SEAL.]
CHA-O-LA, his x mark.	[SEAL.]
LA-WIN, his x mark.	[SEAL.]
KA-BA-DIM, his x mark.	[SEAL.]

For and in behalf of the Mas-su-ta-ka-ya tribe.

CAL-PEL-LA, his x mark.	[SEAL.]
CAL-LEEL-TEM, his x mark.	[SEAL.]
POR-DIM, his x mark.	[SEAL.]

For and in behalf of the Po-mo tribe.

CHI-BEM, his x mark.	[SEAL.]
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Signed, sealed and delivered in the presence of the undersigned witnesses: the above-mentioned articles, and the several articles and stipulations of the treaty of Camp Lu-pli-yu-ma, having been first fully explained.

JOHN MCKEE, *Secretary.*

GEORGE GIBBS,

GEORGE WHITEHORN, } *Interpreters.*

H. W. WESSELS, *Brevet major, U. S. A. commanding escort.*

JOHN S. GRIFFIN, *Assistant Surgeon U. S. army.*

EDWARD C. KENNEDY.

WALTER McDONALD.

JAMES A. CLARKE.

SASHEL WOODS.

GEORGE PARKER ARMSTRONG.

(Q.) TREATY MADE AND CONCLUDED AT CAMP KLAMATH, AT THE JUNCTION OF KLAMATH AND TRINITY RIVERS, STATE OF CALIFORNIA, OCTOBER 6, 1851, BETWEEN REDICK MCKEE, INDIAN AGENT, ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE POHLIK OR LOWER KLAMATH, &c., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Klamath, at the junction of the Klamath and Trinity rivers, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the chiefs, captains, and head men of the tribes or bands of Indians now in council at this camp, representing the Poh-lik or lower Klamath, the Peb-tsick or upper Klamath, and the Hoo-pah or Trinity river Indians; containing also stipulations preliminary to future measures to be recommended for adoption, on the part of the United States.

ART. 1. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States: and hereby bind themselves to refrain hereafter from the commission of all acts of hostility or aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may hereafter come under the protection of the United States.

ART. 2. Lest the peace and friendship established between the United States and the said tribes should be interrupted by the misconduct of individuals, it is expressly agreed that, for injuries received on either side, no private revenge or retaliation shall take place or be attempted; but instead thereof, complaints shall be made by the party aggrieved to the other, through the Indian agent of the United States in their district, whose duty it shall be to investigate, and, if practicable, adjust the difficulty; or, in case of acts of violence being committed upon the person or property of a citizen of the United States by an Indian or Indians belonging to or harbored by either of said tribes or bands, the party or parties charged with the commission of the crime shall be promptly delivered up when demanded, to the civil authorities of the State of California for trial: and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes, the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

ART. 3. The said tribes or bands hereby jointly and severally relinquish, cede, and forever quit claim to the United States, all their right, title, claim or interest of any kind which they or either of them have to lands or soil in California.

ART. 4. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed, on the part of the United States, that the following tract or district of land shall be appropriated and set apart as an Indian reservation, and the use and possession thereof forever guaranteed to the said tribes, their successors, and to such other tribes as the United States may hereafter remove from other parts of the valleys of the Trinity or Klamath rivers, or the country adjacent, and settle thereupon, to wit: commencing at the mouth of a stream called John's creek, emptying into Trinity river on the north side thereof, about fourteen miles above this camp; thence running up the middle of the same with its windings, to a distance of five miles; thence

north to the summit of the dividing ridge between the waters of the Trinity and Klamath rivers; thence northwestwardly in a straight line to a point on said Klamath river opposite the lower end of what is now known as "Red Cap's" bar; thence due west to the summit of the first ridge lying beyond the Klamath river; thence southwestwardly along the summit of said ridge to a point due north of the mouth of Pine creek; thence south to the mouth of Sand creek; thence up Pine creek with its windings, to a point due south of the place of beginning; and thence north to said place of beginning. The said reservation including, by estimation, a tract twenty miles in length by twelve miles in width, and containing in all six or seven square miles of farming land. It is, however, understood and agreed that the United States reserves the right of way over said lands, and of using for farming purposes any quantity thereof not exceeding one thousand acres; also the right to establish such military posts, erect such buildings, and make such improvements for the accommodation of their agent and other officers or servants as the President may direct; also that said tribes or bands shall never sell or alienate their right or claim to any part thereof, except to the United States, nor shall they ever lease to or permit white men to settle, work or trade upon any part thereof without the written permission of the United States Indian agent for the district.

ART. 5. It is further stipulated and agreed that the said tribes or bands shall, within three years from the date hereof, or sooner, if thereto required by the United States, remove to and settle upon said reservation; and that whenever said removal and settlement shall be ordered by the United States or made by said tribes, such farmers, mechanics, and school-teachers to instruct them in the language, arts, and agriculture of the whites as the President may deem expedient and proper, shall be assigned, provided for, and settled among them, so as to place the Indians on said reservation in a situation as favorable for their improvement (being in like manner supplied with facilities for farming, stock-raising, &c.,) as by the treaty of Lu-pli-yu-ma on the 20th day of August, 1851, is stipulated to be assigned to and provided for the *Clear Lake Indians*. It is understood, however, that if upon examination by the Indian agent it is found that any of the articles or supplies provided in said treaty for the *Clear Lake Indians* shall be unnecessary for or unsuited to the Indians on the Trinity and Klamath, the President may in his discretion withhold the same, and invest the value thereof in other and more suitable goods. And it is further expressly agreed and understood that if either of said tribes or bands, or other Indians harbored by them shall be guilty of theft, robbery or murder, either upon the persons and property of Indians or whites, the United States may exclude such tribe or band from all the benefits of this treaty.

ART. 6. As early as convenient after the ratification of this treaty by the President and Senate, the United States will deliver to the said Klamath and Trinity Indians, through their agent, during each of the years 1852 and 1853, viz: five hundred pairs two and a half point Mackinaw blankets, five hundred pairs strong cotton pantaloons, five hundred cotton (hickory) shirts, five hundred red flannel shirts, five hundred strong cotton or linsey gowns, three thousand yards of calico, three thousand yards of four-fourths brown sheetings, thirty pounds Scotch thread, five thousand needles, six dozen pairs scissors, two gross thimbles, ten pounds pins, ten dozen nine-inch flat files, thirty-five dozen large size butcher knives, ten mattocks, one hundred garden or corn hoes, two hundred chopping axes, handled, common size, two hundred chopping axes, handled, small size; one hundred sheet-iron camp kettles, large size; one hundred sheet-iron camp kettles, second size.

It is understood, however, that the agent shall use a sound discretion as to the time when, and the tribes or persons to whom the said goods shall be distributed, having reference to their peaceful disposition and good conduct.

ART. 7. In consideration of the premises, the United States, in addition to the numerous presents of beef, bread, sugar, blankets, shirts, &c., &c., made to said tribes at this camp, will, within sixty days from the date hereof, furnish them free of charge at the ferry of C. W. Durkee, in Klamath river, to enable them to rebuild the houses recently destroyed by the whites, with four dozen chopping axes, handled, ten sacks of hard bread, and four bullocks, sixteen pairs heavy blankets, to be distributed among them by said Durkee, according to their respective losses.

ART. 8. These articles to be binding upon the contracting parties when ratified by the President and Senate of the United States.

In testimony whereof the parties have hereunto signed their names and affixed their seals this sixth day of October, anno Domini 1851.

REDICK McKEE, [SEAL]
United States Indian Agent for California.

For and in behalf of the Wetch-peck tribe, living at mouth of Trinity.

WUCK-UG-GRA, his x mark. [SEAL]
WA-PE-SHAW, his x mark. [SEAL]
SA-SA-MICH, his x mark. [SEAL]
EN-QUA or AMOS, his x mark. [SEAL]

For and in behalf of the Wuh-si tribe, living three miles below mouth of Trinity river.

MO-RU-KUS, his x mark. [SEAL]

For and in behalf of the Cap-pel tribe.

MAH-ON, his x mark. [SEAL]

For and in behalf of the Mor-ri-ahs.

MAH-ON, his x mark. [SEAL]
WUS-SUR, his x mark. [SEAL]
UP-PER-GASH, his x mark. [SEAL]

For and in behalf of the Ser-a-goines.

UP-LA-GO-PUS, his x mark. [SEAL]
MOO-ROO-KUS, his x mark. [SEAL]
SA-ET-MA-GEHL, his x mark. [SEAL]

For and in behalf of the Pak-wan tribe.

CAP-PEL-LA-WAH, his x mark. [SEAL]

For and in behalf of the Ut-cha-pah tribe, living near the mouth of Bluff creek.

E-NE-NUCK, his x mark. [SEAL]
MOW-WEIGHT, his x mark. [SEAL]

For and in behalf of the Up-pa-goines, living near "Red Cap's" bar, on Klamath river.

KEE-CHAP, his x mark. [SEAL]
RED CAP or MIK-KU-REE, his x mark. [SEAL]

For and in behalf of the Sa-von-ra tribe.

SA-VON-RA, his x mark. [SEAL]
UP-PA-GRAH, his x mark. [SEAL]
EX-FIN-E-PAH, his x mark. [SEAL]

For and in behalf of Cham-ma-ko-nee tribe.

KA-TOP-KO-RISH, his x mark. [SEAL]

For and in behalf of the Coc-ko-man tribe.

PA-NA-MO-NEE, his x mark. [SEAL]

For and in behalf of the Chce-nah tribe, living ten miles below mouth of Salmon river.

AK-KA-REE-TA, his x mark. [SEAL]

For and in behalf of the Hoo-pahs or Trinity river Indians, residing in twelve rancherias or villages.

Principal chief, AH-ROOK-KOS, his x mark.	[SEAL.]
TE-NAS-TE-AH or JOHN, his x mark.	[SEAL.]
MET-POOKA-TA-MAH, his x mark.	[SEAL.]
NIC-A-WA-EN-NA, his x mark.	[SEAL.]
WASH-TEN, his x mark.	[SEAL.]

Signed, sealed and delivered, after being duly explained, in presence of—

JOHN MCKEE, *Secretary.*

C. W. DURKEE, } *Interpreters.*

GEORGE GIBBS, }

H. W. WESSELLS, Brevet Major, U. S. A., commanding escort.

WALTER VAN DYKE, }

GEO. W. ELLSWORTH, } *Interpreters.*

MORRIS S. THOMPSON, }

WALTER McDONALD, }

A TREATY SUPPLEMENTARY TO THE FOREGOING TREATY.

The undersigned chiefs, captains and head men of the Si-wah, Op-pe-o, He-ko-neck and In-neck tribes or bands of Indians, residing at and near to the mouth of the Cor-a-tem or Salmon river, having had the terms and stipulations of the foregoing treaty, concluded at Durkee's ferry on the 8th instant, fully explained to them by Redick McKee, Indian agent of the United States, having expressed an earnest desire to become parties to the said treaty in all its articles and stipulations, it is therefore agreed by and between the said agent and the said chiefs, &c., that the said bands be and hereby are admitted as parties to the same, and to the advantages thereof, and become bound by the stipulations therein contained as fully in all respects as if they had been parties thereto originally.

In testimony whereof the parties have hereunto signed their names and affixed their seals at Camp Cor-a-tem, near mouth of Salmon river, this twelfth day of October, anno Domini, 1851.

REDICK MCKEE, [SEAL]
United States Indian Agent.

For and in behalf of the Si-wah band.

ESSE-PISH-I-A, his x mark.	[SEAL.]
RES-SOW, his x mark.	[SEAL.]
CHEE-FEE-CHA, his x mark.	[SEAL.]
PI-RA-TEEM, his x mark.	[SEAL.]

For and in behalf of the Op-pe-o band.

CA-POR-U-PUCK, his x mark.	[SEAL.]
PEEK-NEETS, his x mark.	[SEAL.]

For and in behalf of the He-ko-neck band.

YAH-FEE-PAH, his x mark.	
HON-A-PUCK-IF-MA, his x mark.	[SEAL.]

For and in behalf of the In-neck band.

SISH-KAH, his x mark.	[SEAL.]
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Signed, sealed and delivered after the foregoing treaty of 6th instant, and this addenda had been fully explained in presence of—

JOHN MCKEE, *Secretary.*

C. W. DURKEE, *Interpreter.*

GEORGE GIBBS.

H. W. WESSELLS, Brevet Major U. S. A., commanding escort.

JOHN S. GRIFFIN, *Assistant Surgeon U. S. A.*

WALTER McDONALD.

(R.) TREATY MADE AND CONCLUDED AT CAMP, IN SCOTT'S VALLEY, SHASTA COUNTY, STATE OF CALIFORNIA, OCTOBER 6, 1851, BETWEEN REDICK MCKEE ONE OF THE COMMISSIONERS ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE UPPER KLAMATH, SHASTA, AND SCOTT'S RIVER TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at camp, in Scott valley, Shasta county, California, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the undersigned chiefs, captains and head men now in council at this camp, representing the Upper Klamath, Shasta, and Scott's river Indians, residing severally in twenty-four, ninety-two, and seven rancherias or villages, and known as the O-de-i-lah tribe or band, I-shack chief, from the Upper Klamath river; I-ka-ruck tribe or band, Tso-lung-git-sko chief; Ko-se-tah tribe or band, Ada-war-how-ik chief; I-da-kar-i-waku tribe or band, I-da-kar-i-waku-ha chief, from Shasta valley; Wat-sa-he-wa tribe or band, Ar-rats-a-cho-i-ca chief; E-eh tribe or band, An-na-nik-a-hok chief, from Scott's valley.

ARTICLE 1. The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves to refrain hereafter from the commission of all acts of hostility or aggression towards the government or citizens thereof, to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may hereafter come under the protection of the United States.

ART. 2. To preserve the peace and friendship hereby established between the United States and the said tribes or bands, it is understood and agreed that for injuries received on either side, no private revenge or retaliation shall take place or be attempted; but instead thereof complaints shall be made by the party aggrieved to the other, through the Indian agent or sub-agent of the United States for their district, who shall investigate, and, if practicable, adjust the difficulty; and in case of acts of violence being committed upon the person or property of a citizen or citizens of the United States by an Indian or Indians belonging to or harbored by either of said tribes or bands, the party or parties charged with the commission of the crime shall be promptly delivered up when demanded of the chiefs by the said agent or a duly authorized officer of the county, to be tried for the alleged offence by the civil authorities of the State of California; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes or bands, the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

ART. 3. The said tribes or bands for and in consideration of the premises, and of the stipulations and promises hereinafter contained, hereby jointly and severally sell, cede, relinquish, and forever quit claim to the United States, all their right, title, claim or interest of any kind which they or either of them have to the lands they now occupy, and to all other lands or soil in California.

ART. 4. To promote the permanent settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following described tract or district of country shall be appropriated and set apart as an Indian reservation, and the use and possession thereof forever guaranteed to the said tribes or bands and their successors, equally with such other Indian tribes or bands and their successors, as the United States may hereafter remove from the waters of the Klamath or Trinity rivers of elsewhere in northern California, and settle thereupon, to wit: commencing at a point on the easterly side of Scott's valley, about six miles above the cabin or improvement generally known as Watson, Gee & Company's ranch, where two cedar trees stand upon the southwest side of a bald hill, and midway between the said cedars; thence running in a southwesterly direction across the said valley to a point projecting into the same, behind which stands a conical peak called Seino's peak; thence over the same and over said peak to the summit of the dividing ridge between the waters of Scott's and Klamath rivers; thence following the same to when a divide runs northward to a creek or large brook entering the Klamath from the northward next above the one entering at Murderer's bar, and known as Indian creek; thence along said divide and across the Klamath river to the mouth of said creek; thence up the main fork of said creek to the forty-second parallel of north latitude; thence eastward along said parallel to a point due

th of a point where the ridge dividing the waters of Scott's river from the waters of Humbug creek terminates at or near the Klamath; thence due south, crossing the Klamath river, to said point; thence following said divide and the divide separating the waters of Scott's river from the waters of Shasta river to a point in a line with the place of beginning, and thence southwesterly to the place of beginning; said tract being by estimation twenty-four miles in length from northwest to southeast by fifteen miles in average width, and containing between for and five square miles of tillable land, *Provided, however*, that those citizens of the United States who are now engaged in mining, raising, or washing gold upon that part of Scott's river lying between the first creek entering the same from the north, above the town of Scott's bar and the mouth of said river, shall be permitted to hold and work the claims of which they are now in actual possession for the term of two years from the date of this instrument, unless sooner exhausted; and *Provided further*, That such other citizens of the United States as have already thrown up earth or raised ore on any other part of said reserve shall be allowed until the first day of June next to wash the same, and that those having cabins or other improvements already erected on said reservation shall be permitted to occupy and enjoy the same, free from molestation, until said first day of June, eighteen hundred and eighty-two, and no longer. *It is also further provided*, That the said tribes or bands shall never sell or alienate their right or claim to any part thereof except to the United States, nor shall they ever lease to or permit white men to settle, work, or trade upon any part thereof without the written permission of the United States Indian agent for the district. It is agreed and understood, however, that the United States reserves the right of way over said lands, and of using for farming purposes any quantity thereof not exceeding one thousand acres; also the right to establish such military post or posts, erect such buildings, and make such other improvements for the accommodation of an Indian agent and other officers or servants as the President may direct.

ART. 5. The said tribes or bands agree and hereby bind themselves to remove and settle permanently upon said reservation, within two years from the date thereof, or sooner if thereto required by the Indian agent of the United States; and whenever said removal and settlement shall take place, the United States with a desire to encourage them in acquiring a knowledge of letters, agriculture, and the mechanic arts, will employ and settle among them upon said reservation, one principal school-teacher, with three male and female assistant teachers to instruct said tribes in the different branches of a common-school education and in the domestic arts of sewing and house-keeping, upon the manual labor system; also one practical farmer who shall assist said tribes in cultivating the soil and act as superintendent of agricultural operations, with two assistant farmers, one carpenter or worker in wood who shall direct and aid in the construction of houses, repairing wagons, &c., &c., and one blacksmith or worker in iron also to be employed for their assistance and convenience; all of the above teachers, farmers, and mechanics to be paid and maintained upon said reservation by the United States for the period of five years, and as long hereafter as the President may deem advisable; also, that the United States will erect suitable dwellings, school-houses and shops for the accommodation of the agent, and of the teachers, farmers and mechanics above specified, and store-houses for the protection of the public property.

ART. 6. The United States will also appoint and settle among said tribes upon said reservation, an agent or sub-agent of the Indian department to carry out the stipulations of this treaty and the general laws and regulations of the Indian department pertaining to the government and improvement of said tribes; and until the United States shall have established a military post on or in the neighborhood of said reservation, with a regular physician or surgeon attached thereto, the United States Indian agent for the district shall be authorized, and is hereby directed to employ at the expense of the United States, a experienced physician to reside on said reservation, attend to the sick among their whites or Indians, and especially to vaccinate the members of each tribe; and when said military post shall be established, the services of the surgeon hereto attached may be substituted by said agent for those of the physician not employed, allowing him therefor a reasonable compensation.

ART. 7. To aid said tribes or bands in their subsistence while removing to and making their settlement upon said reservation, the United States, in addition to twelve head of beef cattle, twenty sacks (one thousand pounds) of flour, and numerous other presents of blankets, shirts, &c., given to them at this camp, will furnish them, free of charge, during each of the years 1852 and 1853, with two

hundred head of beef cattle, to average in weight five hundred pounds net, and two hundred sacks (equal to twenty thousand pounds) of flour, five hundred pair of two and a half point Mackinaw blankets, five hundred pairs strong parol-loons, five hundred cotton (hickory) shirts, five hundred red flannel shirts, five hundred linsey gowns for women and girls, three thousand yards of calico, three thousand yards 4-4 brown sheetings, twenty-five pounds Scotch thread, five thousand needles, assorted, one gross of thimbles, ten pounds of pins, twelve dozen scissors, fifty dozen common size butcher knives, five hundred pea-jackets of heavy, strong cloth, assorted, one thousand pounds of salt, one hundred hatchets, all to be distributed among them by the agent, according to their respective numbers.

ART. 8. As early as convenient after the ratification of this treaty by the President and Senate, and the settlement of said tribes or bands upon said reservation, the United States will also furnish them with twenty-four brood mares and one stallion, thirty milch cows and one bull, fifty sheep, ten hogs (both sexes,) four yoke of work cattle, with yokes, chains, &c., two breaking ploughs, ten small ploughs, two ox wagons, one mule wagon, seeds of all proper kinds for sowing and planting, eight work mules or horses with harness, one hundred heavy spades, twelve mattocks, four hundred garden or corn hoes, two hundred chopping axes, common size, with handles, two hundred chopping axes, small size, with handles, two hundred sheet-iron camp-kettles, first size, two hundred sheet-iron camp-kettles, second size, four hundred tin pans, (two hundred large size, two hundred small size,) one set of blacksmithing tools, one set of carpenter's tools, three thousand pounds of iron, five hundred pounds of steel, assorted, fifty dozen p't tin cups, fifty dozen tin plates, fifty dozen iron-lined spoons, three United States flags. The stock enumerated above, and the product thereof, together with the farming utensils and mechanical tools to be held as the joint property of said tribes or bands, the former to be marked or branded with such letters or marks as will at all times designate the same to be their property and no part or portion thereof shall be killed, exchanged, sold, or otherwise parted with, without the assent and direction of the agent.

ART. 9. It is further agreed, that the United States will fence in with a good board or post and rail fence, preparatory to breaking up the soil for planting, one thousand acres of land; and if, by the year 1853, the said tribes or bands shall not be in a situation to provide themselves with food and clothing, and the agent for their district shall so recommend, the President, in his discretion, may order for their use, in the year 1854, a like or smaller quantity of the articles enumerated in article 7 to be provided for the years 1852 and 1853.

ART. 10. It is further understood and agreed that within the line of the reservation referred to and described in article 4, there shall be retained and set apart a belt or border of one mile in width on the eastern and southern sides or lines thereof, whereon it shall not be lawful for either Indians or white men to settle on or remain, or to pass over except by the highways or roads running through the same, but the same shall be exclusively within the jurisdiction of the United States.

ART. 11. The said tribes or bands hereby bind themselves to deliver up within sixty days from the date hereof, all horses, mules, or other property which may be in their possession, stolen from the whites, the claimants making proof of ownership before the agent or such person as he may designate to act in his absence, or before a magistrate or judge of the county of Shasta; all such property claimed but not clearly identified, to be returned to the Indians.

In testimony whereof, the parties have hereunto signed their names and affixed their seals, this fourth day of November, anno Domini eighteen hundred and fifty-one.

REDICK McKEE.

United States Indian Agent. [SEAL]

For and in behalf of the O-de-4-lah tribe or band from the Upper Klamath river.

I-SHACK, his x mark. [SEAL]

E-EH-NE-QU'A, his x mark. [SEAL]

PI-O-KUKE, his x mark. [SEAL]

SA-NAK-A-HA, his x mark. [SEAL]

For and in behalf of the I-ka-ruck tribe or band in Shasta valley.

TSO-HOR-GIT-SKO, his mark. [SEAL]

CHE-LE-NA-TUK, his x mark. [SEAL]

For and in behalf of the Ko-se-tah tribe or band in Shasta valley.

ADA-WAR-HOW-**IK**, his x mark. [SEAL.]
QUAP-SOW-A-HA, his x mark. [SEAL.]

For and in behalf of the Ida-kar-i-waka-ha tribe or band in Shasta valley.

A-LAT-SE-WAK-A-NA, his x mark. [SEAL.]
IDA-KAR-I-WAK-A-HA, his x mark. [SEAL.]

For and in behalf of the Wat-sa-he-wa tribe or band in Scott's valley.

AR-RATS-A-CHO-I-CA, his x mark. [SEAL.]

For and in behalf of E-eh tribe or band in Scott's valley.

AN-NA-NIK-A-HOK, his x mark. [SEAL.]
SUN-RISE, his x mark. [SEAL.]

Signed, sealed and delivered, after being fully explained, in presence of—

JOHN MCKEE, *Secretary.*
GEORGE GIBBS, } *Interpreters.*
LINDLEY ABEL, }
W. T. SMITH.
F. H. MCKINNEY.
C. McDERMIT.
SAMUEL FLEMING.
WALTER McDONALD.
C. FULTON.
WM. H. BURGESS.
EDWARD HICKS.
WILLIAM DAIN.
LIRY SWAN.
GEO. W. TAIT.

Mr. RAKER. Now this says here:

June 7, 1852. Read and, with the documents and treaties, referred to the Committee on Indian Affairs and ordered to be printed in confidence for the use of the Senate.

Then:

January 18, 1905. Injunction of secrecy removed.

The injunction of secrecy was removed then and not before, and the order was simply made like this, which applies to all of the treaties. I have the book here with the Senate order in it, but this applies to all of them:

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and entered into at Camp Belt, on Kings River, in the State of California, on the 13th day of May, 1851, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains, and head men of the following tribes of Indians, to wit—

Naming them.

Now, there was a similar order made in each of the cases, which is found on pages 417, 418, and 419 of the printed journal of executive proceedings of the United States Senate for July 8, 1852.

The CHAIRMAN. I would like to ask a question or two right here: During the last five years have you attempted to bring about this same legislation?

Mr. RAKER. In this way—

The CHAIRMAN (interposing). And have there been any hearings held on it?

Mr. RAKER. No; except this: The Committee on Indian Affairs of the House has been very busy, and they took up some questions of appropriations, small amounts, for the California Indians. We appeared before the Senate Committee last year and presented some evidence on the matter.

The CHAIRMAN. Was there a record made of that?

Mr. RAKER. What was made of it was taken, but the Senate committee suggested, because of this matter, the Commissioner of Indian Affairs would proceed to make an examination of the condition of the California Indians, and also the Board of Indian Commissioners, and I understand that the board have made their investigation, and the Commissioner of Indian Affairs—the Bureau of Indian Affairs—is working on theirs, and it is not complete as yet. Then the Senate committee suggested that we take up in proper time with the committee such legislation as would really determine this question as to the rights of these Indians.

On May 28, 1852, President Fillmore sent these treaties to the Senate. They are found on pages 390 to 394 of the Executive Journal, United States Senate, 1848 to 1852. Then on June 28, 1852, on page 417 of the same book is found this:

The 18 treaties with Indian tribes in California, received on the 7th and reported without amendment the 28th of June, were severally read the second time and considered as in Committee of the Whole, and no amendment being made thereto they were severally reported to the Senate. On the question being stated on each treaty, to wit: Will it consent and advise to the ratification of this treaty, it was unanimously determined in the negative by the following vote on each treaty.

The CHAIRMAN. Why were there 18 treaties presented? Were they treaties with 18 different bands?

Mr. RAKER. With 18 different bands of Indians, and 18 different tracts of land, and 18 different amounts to be supplied the Indians, which I will call to the committee's attention covered provisions for blacksmith tools, it covered provisions for farming implements, for cattle and horses.

The CHAIRMAN. Are those 18 treaties being operated to-day?

Mr. RAKER. They are not. And it included in the neighborhood of 5,000,000 acres of land.

The CHAIRMAN. Are there any of the treaties in operation to-day?

Mr. RAKER. None. And the Indians proceeded to carry out all of their agreements. They never went on the war path; they became attached to the Government; they participated in all its functions, but the Government proceeded to provide nothing at that time, and for years gave them but little if anything. It proceeded to take all of the land and sell it, and practically all of the land—I guess there is none of it in those treaties, that the Indians were to have was turned over to them, and the land was disposed of as other Government's domain.

The CHAIRMAN. Then under those treaties no land was turned over to the Indians as agreed upon in the treaty?

Mr. RAKER. I think the answer to that is it was not. That is about the statement, is it, Mr. Meritt, as near as I can find out?

Mr. MERITT. These so-called treaties were submitted by the President to the Senate for ratification. The 18 treaties were not ratified by the Senate but were returned with resolutions showing the reasons why the treaties were not ratified.

The CHAIRMAN. Then they never were legally in existence?

Mr. MERITT. The treaties are not now legally in existence.

The CHAIRMAN. Have they ever been?

Mr. MERITT. No, sir. I think it would be well, Mr. Chairman, to place in the record the Senate resolutions returning the treaties without ratification.

The CHAIRMAN. Without objection that will be done.

Mr. RAKER. Of course our contention on that is—and I think the department agrees with it—that the treaties were not for want of ratification abrogated. That is a legal question for the court to determine. In other words, the treaties were entered into, were complied with by the Indians; the Government accepted the agreement and accepted the land and disposed of it, and the treaties were in possession of the executive department and could have been returned at any time and could have been approved at any time later if desired, but both parties proceeded as though the treaties were actually approved, but the Government never on its part, carried out the terms of the treaties.

Mr. SINCLAIR. The terms of the treaty were entered into and carried out by the Indians?

Mr. RAKER. Absolutely. The Government took the land and used it; disposed of it. In 1851 and 1852 a duly authorized United States commission secured the signatures of about 400 California Indian chiefs, the heads of bands, to treaties. These chiefs represented approximately 150 bands or tribes. There were 18 of these treaties, all similar in tenor, which we have presented in the record. The terms of the treaties were substantially as follows:

The Indians agreed:

- (a) To cede their rights in lands to the United States Government.
- (b) To keep the peace.
- (c) To accept the sovereignty of the United States.
- (d) To accept the certain reservations, 18 in number, aggregating about 7,500,000 acres described in said treaties by metes and bounds, worth at the Government price of \$1.25 per acre about \$9,500,000.

Now, it might be said that the cession was turned over to the United States; the Indians kept the peace, they accepted the sovereignty of the United States, and the Government obtained the land.

The Government agreed to do as follows:

- (a) To pay the Indians certain sums in goods amounting to about \$1,800,000.
- (b) To reserve in perpetuity for the Indians' use and enjoyment different reservations specified in said treaties.
- (c) To provide school and other necessary buildings.
- (d) To provide skilled instructors in farming, blacksmithing, and woodwork, supervisors and such assistants as should be found necessary. Said instruction to be continued as long as might be found necessary by the President.

For, I suppose, a number of years practically nothing was done, and then within the last 10 years some provision has been made.

The Senate of the United States did not ratify these treaties, and the Government therefore quite properly considered them inoperative. The reasons why the Government did not ratify these treaties or settle with the Indians of California in some other suitable way for their rights to lands and other native opportunities is obscure.

These Indians have long been clamoring for an adjustment of their claims and for education advantages and proper care for their indigent members.

The Annual Report of the Department of the Interior for 1901, page 346, records the following statement:

We have not always been consistent in our treatment of these old-time leaders. Some chiefs in other tribes, who, through their hostility, cost the lives of many innocent settlers and whose subjugation cost large sums, have been greatly favored, some of them with salaries, while Boos Kaleyoun, who, through his determined loyalty no doubt helped to save the menaced settlements at the time of Capt. Jack's rebellion in 1872 and 1873, spends his remaining days in poverty.

The majority of the Indians of California are in destitute circumstances and are without educational opportunities. We have the Greenville School, giving some consideration to the education of the Indians; we have the Fort Bidwell School, giving some consideration at that point, and these particular matters will be presented as to the credit of the Government before we conclude.

Now, here is a remarkable statement:

Out of the 210,000 California Indians of 70 years ago there are left but a miserable remnant of 20,000. The 210,000 estimate is an extremely conservative one, compared with that of Stephen Powers, one of California's most reliable ethnologists, who claimed that there were over 750,000 Indians in this State at the time of the coming of the white man to California. Let us, for the sake of our case, allow that there were only 210,000, and that to-day there are 20,000 Indians.

Mr. HERNANDEZ. Where did they go?

Mr. RAKER. They died; starved to death.

Mr. HERNANDEZ. And moved away?

Mr. RAKER. No; they practically, in many instances, starved to death. Smallpox and disease got amongst them and they were wiped out by whole villages.

The CHAIRMAN. At what period was this estimate of 210,000 made?

Mr. RAKER. About 1850.

Mr. COLE. You say there were 700,000?

Mr. RAKER. That was one man's estimate, but the most conservative estimate is about 210,000. I find that from various sources.

But now even this last winter in my own county in one little village I am advised by the newspapers that 75 Indians died from the flu, and the whole community was wiped out. This is but one illustration. In other places the deaths from flu have been very great. Now, whether at this particular place that statement is true I am not prepared to say, only I have noticed it repeatedly in a dozen papers as the result of the flu in this one community.

Mr. MERITT. We have had that report investigated, Mr. Chairman, and found that it was very greatly exaggerated. There were only a very few Indians who died from influenza.

Mr. RAKER. I am glad that you had that investigated and are able to report on the real question.

Confronted by these facts, we must acknowledge, astounding as it may appear, that at least 190,000 Indians, without regard to their birth rate, have died in California during so brief a period. This terrible and swift decrease of the Indian population is indisputably chargeable to three causes, principally—eviction, starvation, and disease.

Dr. Judson Liftchild, of Mendocino County, Calif., who has been a practicing physician for 22 years, in an address at the conference of the Indian Board of Cooperation, held in San Francisco, August, 1915, said:

I have lived for nine years as Government physician on a large reservation, and for several years as superintendent of the county hospital and almshouse, and county health officer; having studied this question, am not giving opinions secondhand. With the exception of a few counties the indigent, sick, or aged Indian receives practically no aid in this State outside of reservations, he being a shuttlecock between State and National authority, each claiming that the responsibilities rests on the other. In the county in which I reside, there are no Indians in the almshouse or county hospital, although there are many instances of pitiable poverty among the aged and cases of curable diseases which go untreated. Children die of tubercular spines and hips and many become blind from trachoma and conjunctivitis. The aged, many of them blind, eke out a miserable existence, half clad and half starved, dependent upon the precarious help of their own poverty-stricken race or the intermittent assistance of charitable white people.

Dr. Liftchild further states with reference to Mendocino, Sonoma, Lake, and adjacent counties that "there is no Government physician outside the Round Valley Reservation, and he makes no visits outside of that reservation."

Now, Mr. Chairman, I do not know of any better presentation right at this time to give to the committee than the report of Mr. C. E. Kelsey, special agent for California Indians, dated March 21, 1906, wherein this entire matter has been gone into, and on pages 4, 5, and 6 of that report he recapitulates and sets up the condition of these Indians from the beginning, before the California settlement down to the present time, and I am wondering whether or not it would not be well to read it to the committee.

The CHAIRMAN. How long is it?

Mr. RAKER. About two pages and a half. I would like to have the report inserted in the record.

The CHAIRMAN. Well, go ahead and read that part.

Mr. RAKER. I will read this:

The treaty of Guadalupe Hidalgo, which ceded California to the United States, guaranteed Mexican land titles in the ceded territory as they stood at the time of the transfer. Under Spanish and Mexican law Indians had certain rights to the lands they occupied and could not legally be evicted from them.

You could really stop at that statement without going any further, it seems to me, on this record, to show primarily to the committee that the Indians had the land. If that general statement is true and the Government did evict them the Government took the land, which is true.

It would seem that this right was an interest in land and one entitled to protection under the provisions of the treaty of Guadalupe Hidalgo.

The act of Congress which provided for the settlement of the titles to Spanish and Mexican grants imposed upon the commission appointed to make the settlement the duty of first setting apart for Indian use all lands occupied by them. It may therefore be assumed that Congress considered that the Indians had substantial rights. It was the duty of the commission to investigate and confirm the Indian title wherever Indians occupied lands included within the limits of a Spanish or Mexican grant.

Your special agent has found but two cases out of several hundred grants where this was done, Pauma and Santa Ynez, and in the latter case the terms of the settlement were so uncertain that an action is now pending in the State courts in regard to it. The new owners of the Spanish grants had to rely upon the Spanish law to sustain the validity of their titles, but was prompt to appeal to the American law to evict the Indians—something they could not legally do under the terms of their grants. It is needless to say that the Indians were evicted, the most recent instance being Warner's Ranch.

Four-fifths of the California Indians, however, were not affected by the Spanish grants, nor did they come under Spanish or Mexican influence, and

their undoing began with the great gold excitement of 1849. When the United States came into full legal ownership of California in 1848, the Spanish or Mexican laws relating to Indians were not adopted, as has been erroneously stated. The policy of the United States adopted toward its new Indian wards in all the ceded territory was exactly the same as everywhere else. The Indian ideas of land ownership are radically different from ours. Our Government has never acknowledged that the Indians owned their lands in fee simple, and in view of the Indian idea of land ownership, this is correct. But the United States has always recognized, and the Supreme Court has held, that the Indians have a right to occupy the land, which right is termed the Indian right of occupancy, a right which can be canceled only by mutual agreement. All Indian lands in the United States, except in a portion of California, have been acquired by the Government of the United States, and acquired only by payment therefor. Even the lands ceded by the Sioux after the great outbreak were paid for. The Indian right of occupancy was in the beginning recognized in California. The Government sent out a commission which made treaties with nearly all the Indian tribes in the State.

Sixteen treaties were negotiated in northern California and two in southern California. These treaties were all very similar in text. The Indians agreed to cede their lands to the United States and to keep the peace and to accept certain reservations described by metes and bounds in the treaties. The Government agreed to reserve forever for Indian use the lands described in the treaties and to pay a certain specified price, payable in a great variety of things, such as provisions, live stock, and miscellaneous goods. The value of the goods thus promised the Indians in northern California was about \$1,500,000, and the land reserved was about 5,500,000 acres, worth, at the Government price of \$1.25 per acre, about \$7,000,000. In southern California the goods promised were worth about \$300,000, and about 2,000,000 acres of land was reserved, worth, at \$1.25 per acre, about \$2,500,000. Some of these reservations were laid out in the mining districts and were strongly opposed by the miner. At that time, in 1851, Indian treaties were submitted to the Senate for ratification. As California had gathered men of influence from all over the land, the miners' protest carried such weight that the Senate rejected not only those treaties that affected the mining districts, but all the treaties. No effort seems ever to have been made to make new treaties or in any way to acquire the Indian title from that day to this, nor have the California Indians ever received one cent for their rights in the lands which they have lost.

I stop there, and I think that is conceded to be the truth and the fact by everyone.

The CHAIRMAN. As I see the matter down to this point, that all came about by the fact that the treaties that were negotiated by the Indians were never ratified by the Senate?

Mr. RAKER. That is true.

The CHAIRMAN. And therefore I suppose the Government has gone on the basis that they had no agreement with the Indians, and perhaps had nothing more than a moral obligation to look after their interests.

Mr. RAKER. That is true, but for years nothing was done; the Indians were left alone to a great extent, and that is the general history. But to-day reservations can not be had for them; the land is disposed of, that in the reservation and that outside which they might have, and the least that the Government can do under this contract is to compensate the Indians; like any private individual, if you enter into a contract and take the benefits of the contract you take my land and keep it and all the benefit from it, then in a court of equity I am entitled to compensation.

The CHAIRMAN. But I do not understand that the Government took the land.

Mr. RAKER. They took all of it.

The CHAIRMAN. Notwithstanding the fact that the treaties were not ratified?

Mr. BAKER. And the Government took possession by virtue of opening up the land for settlement and permitting everybody to file on the land as mining claims, homestead, desert-land claims, timber claims, and whatever it might be.

The **CHAIRMAN.** Now you say there are about 20,000 of these Indians left, and there are 15,000 of them off reservations?

Mr. BAKER. Yes, sir.

The **CHAIRMAN.** Now how many Indians will be involved in these claims?

Mr. BAKER. I imagine about 20,000.

The **CHAIRMAN.** Will it not run back to the heirs of those who are dead?

Mr. BAKER. Well, there is only this bunch left and they will have to connect up their heirship, whatever it might be. My theory of the matter is that the Government owes these Indians and should carry out its agreement. It can not do it in the way of specific performance, and therefore the only thing that can be done is to provide the fund or amount that should be given to the credit of these Indians, and the Indians should be charged up with what the Government has provided for them in the meantime, giving the real value of the land with certain increases at the present time, and deducting the amount that the Government has allowed to them.

The **CHAIRMAN.** How long ago did the Government begin to do something for those Indians in the way of building schools and furnishing them with rations and things of that sort?

Mr. BAKER. May I say 20 years, Mr. Meritt?

Mr. MERITT. During the last 20 years we have been trying to educate the Indians, and we have also purchased a considerable amount of land for them. Congress has been making appropriations for them annually.

The **CHAIRMAN.** Then from 1854 down to 20 years ago the only thing the Government did for the Indians was to take their land away from them?

Mr. BAKER. That is it.

Mr. MERITT. There were appropriations made for the Indians prior to 20 years ago, and when I make my statement I will ask permission to insert in the record the appropriations that have been made for those Indians.

Mr. HERNANDEZ. Has a census ever been made of these Indians?

Mr. MERITT. We have a census of the California Indians, and when I make my statement I will also want to place in the record a census for the last 15 years, to show that there has been a very small decrease in the Indian population of California since we have been taking care of them. Prior to that time a great many Indians lost their lives out there from neglect and other causes.

Mr. HERNANDEZ. In connection with this law it would be very necessary to have a census of them, so that other Indians from other sections of the country could not get in there.

The **CHAIRMAN.** And could not participate.

Mr. HERNANDEZ. Yes; it is an analogous case to that of the Pueblo Indians, except that the Pueblo Indians did retain their lands.

Mr. BAKER. Now, this report covers that matter quite fully, and I think what I have read gives the gist of the matter, and as these

reports are quite scarce I would like to have permission to make this part of the hearing.

The CHAIRMAN. It is ordered printed, then, unless there is objection.

(The report of C. E. Kelsey, referred to, appears hereafter in the report on California nonreservation Indians, by Malcolm McDowell.)

Mr. RHODES. I would like to ask Mr. Raker a question or two.

Do I understand that this bill refers to Indians belonging to a tribe known as the California Indians, or does it relate to Indians—to all Indians in the State of California?

Mr. RAKER. To all Indians in the State of California who desire to participate in such legislation.

Mr. RHODES. Well, suppose a Flathead happened to live in the State of California, would this legislation give such Flathead Indian a right to go into the Court of Claims for the purpose of bringing a suit against the Government with regard to any question that might exist between such Flathead Indian and the Government, as a member of that tribe?

Mr. RAKER. Well, offhand, I would not like to be specific, but from the records that have been procured with the names of the Indians in these treaties, the tribes, I imagine that this bill would only authorize those who were descendants, irrespective of where they live now, of the California Indians to participate in this legislation.

Mr. RHODES. That is exactly why I asked the question, because offhand, with the first explanation given I would hold that that would give any Indian residing in the State of California the right to litigate any claim that he might have against the United States, regardless of the tribe to which he belonged, or of which he might be a descendant. So if it is the intention to confine this class of cases to the California Indians—that is, Indians of the tribe by that name——

Mr. RAKER (interposing). There are none by that name. They are all different names.

Mr. RHODES. Then it must be that that would apply to the Indians of all tribes and would give every Indian in the State of California the right to bring suit against the Government.

The CHAIRMAN. It says, "all bands of Indians in the State of California."

Mr. HERNANDEZ. That is exactly what would happen.

Mr. RHODES. It also says, "any tribes or bands."

Mr. MERITT. Mr. Chairman, may I make a statement in response to that? You will notice that the title of the bill reads: "Authorizing any tribes or bands of Indians of California to submit claims to the Court of Claims." It does not authorize the individual Indians, such as a Flathead Indian who may be living in California, to submit his claim.

The bill provides, "that all claims of whatsoever nature which any tribes or bands of Indians of California may have against the United States may be submitted to the Court of Claims for determination of the amount, if any, due said tribes or bands from the United States for lands formerly occupied and claimed by them in the said State."

Mr. RHODES. That would shut out any individuals or bands having claims in other States.

Mr. MERITT. Yes, sir; I think the bill clearly limits it to tribes of bands of California Indians, and also refers to lands within the State of California.

Mr. RAKER. Now in this connection a letter written March 28, 1906, by the Northern California Indian Association goes into the matter. They made an investigation and this shows the condition then.

The CHAIRMAN. I would like to know something about this association. What are they, who are they, and whom do they represent?

Mr. RAKER. At that time they were such people as Mrs. David Starr Jordan, Dr. George C. Pardee, who afterwards became governor of the State; and Mrs. J. W. Dinsmore.

The CHAIRMAN. That is enough. I just wanted to get the nature of the membership of the association.

Mr. RAKER. They are a very high class lot of people who were only interested to see that proper consideration was given those Indians.

The CHAIRMAN. Without objection that may be inserted in the record.

(The paper referred to follows:)

THE NORTHERN CALIFORNIA INDIAN ASSOCIATION.

To the honorable the Congress of the United States:

The undersigned, the Northern California Indian Association, hereby respectfully renews its petition of last session and prays your honorable body for the relief of the landless Indians in Northern California.

The petitioner is a body corporate under the laws of the State of California, having its principal place of business in the city of San Jose, Calif., and is organized for "benevolent, charitable and missionary purposes for the benefit of the Indians of California," among which purposes are the following:

"To aid the Government and the people of the United States in preventing all oppression of Indians, and securing to each and every Indian the same rights, protection, and privileges under the laws, whether national or State, as are secured to all citizens and inhabitants of the United States of whatever race or color.

"To engage in and aid in educational, missionary, and other work among the Indians of California, for their benefit and advancement in the same manner, as far as may be, as that pursued by the National Indian Association of the United States."

During the last 10 years the petitioner has had occasion to investigate carefully the conditions surrounding the northern California Indians, and the causes of their present state.

We find it to be a fact that elsewhere than in California it has been the universal practice of the Government of the United States to recognize the Indian right of occupancy of the lands claimed by the various tribes, and everywhere but in California this right has been extinguished only by payment therefor. In the greater part of the State of California the Indian right of occupancy has been canceled and the Indians have never received a single dollar for their rights in more than 100,000 square miles of territory.

In the early days of American occupation, commissioners were sent out from Washington to make treaties with the Indians of California, and treaties were actually negotiated with some 80 or 90 bands. These treaties contained the provisions usual to such treaties of the time, but none of them were ratified by the United States Senate, and so in the governmental view never became operative. Nevertheless, although the Government has never recognized these treaties as binding upon itself, it has appropriated every advantage conferred by the treaties without in any manner carrying out its part of the agreement or paying any of the things agreed to be paid. The Government has not only seized the Indian lands which it agreed to purchase in the treaties, but the Indian reservations also and has sold the same to settlers.

The two or three tribes who resisted the occupation of their lands by whites received reservations, which are now either allotted or in progress of being allotted. These Indians number about 1,700. The great body of northern Cali-

for California Indians, who were faithful to their treaty obligations, notwithstanding the bad faith of the Government, have received nothing, not even school privileges for their children or the equal protection of the law. These Indians number, as nearly as the petitioner is able to estimate, between thirteen and fourteen thousand.

The Indians last mentioned have surrendered their right of occupancy to the United States upon the promise of the Government to pay a stated consideration and the consideration has not been paid. The Government is in the position of one who has bought real estate and relies upon the invalidity of his own act to escape paying the agreed price. It seems clear to us that the Government cannot honestly retain both the land and the price.

The results of the failure of these treaties have been disastrous to the Indians of Northern California. They secured the greater part of their living from the soil, and with the loss of their land, which has come sooner or later, their means of securing a livelihood is at an end, and they have been plunged into the extreme of destitution and misery. The vices and diseases imported with civilization have been fatal to the majority, and the mortality has been so great that it is estimated that their number to-day is not more than 12 or 15 per cent of their number 60 years ago. With the loss of their lands the Indians have become squatters and tenants upon sufferance, and have been the victims of a constantly increasing series of evictions as the white population has increased and the pressure for land has grown greater. The uncertain tenure and enforced removals has largely prevented missionary and school work among them, while race prejudice has for the most part debarred their children from the public schools. Their position has year by year been growing more desperate, and the misery to which some of the bands have been reduced is now extreme.

Of the 13,500 nonreservation Indians north of Tehachapi, about 2,500 are scattered in small bands of from one to four families; the great body of them, numbering about 11,000, are isolated in small settlements of from 20 to 150 souls, averaging about 50. In these petty communities the conditions are worse than upon any American reservation, for they are open to all the vicious and demoralizing features of civilization, and cut off wholly from schools, missions, or anything that makes for good, and the Indians living in them are often without protection as to person or property and are liable to eviction at any moment.

The few Indians who have lands are in far better condition. Most of them have received or are in process of receiving their allotments in severalty, and have had educational and missionary instruction for many years past. The present unfortunate condition of the nonreservation Indians of northern California is largely and perhaps wholly owing to their landless condition. And this landless condition results from the seizure of their lands by the Government of the United States without payment therefor. We therefore earnestly petition and pray that lands be granted to the landless Indians of northern California in partial payment, at least, of their just claim against the Nation. We should deprecate the payment of money or goods or household or farming utensils as demoralizing in the extreme. We consider that reservations would be disastrous to the Indians and would put them back 50 years in their advance toward civilization.

It is our belief that individual allotments in severalty under the terms of the general allotment acts and with accompanying citizenship can safely be given to these Indians and will for the most part settle the problem here. As most Indians are unable to use large farms properly, small tracts of a few acres to each family is all that is required.

We are fully aware that there is a provision in the statutes by which Indians are entitled to select allotments from the public domain. From the passage of this act to April 1, 1904, 2,021 such allotments have been made in northern California of which 148 have been canceled, leaving 1,873 now outstanding. The Indians provided for by these 1,873 allotments number about 2,800. Less than 1,000 are provided for by ownership of lands by themselves or by others, leaving about 10,000 Indians who are landless and homeless and subject to eviction any day. More than 1,000 of the 1,873 allotments are in the counties of Plumas, Lassen, Modoc, Siskiyou, and Shasta, where the white population is not as yet very dense.

The petitioner has also made extensive inquiries as to the land available for settlement by these Indians. We find that there is very little land of the class called in California agricultural land available for entry; that the grazing lands are not well suited for the purpose, and are largely in the possession of

cattle men; that only steep canyon sides, tops of ridges, barren peaks, and deserts remain in the hands of the Government.

The allotments already made are chiefly of this character. And so barren and sterile are they that more than two-thirds of the Indians receiving allotments are compelled to reside away from their allotments in order to live.

The great body of landless Indians live in places remote from Government lands. Very little of the vacant land is capable of furnishing a living to any one. To place these Indians upon such lands would mean wholesale starvation. The Indians are intensely attached to the localities where they have lived for generations, and refuse to live elsewhere. They also have the acquaintanceship and means of making their own living, such as it is, where they now are, and if they are granted lands in the neighborhoods where they now live they will be no further expense to the United States; whereas if they be sent to any of the Government land now remaining they will be a source of expense for years to come.

We therefore recommend and petition that our landless Indians be given small tracts of land in severally where they now reside; that their own lands be given them wherever possible; and that a sufficient sum be appropriated to purchase these tracts wherever there is no Government land available. The amount required for this purpose is far less than will be required to relieve their necessities after they are evicted from their present homes, and will be but a very small portion of the sums which the Government has already received from the sale of the Indian lands. We do not ask this tardy justice for the Indians of northern California because they are hungry or poverty-stricken or degraded—and some of them are all these—but because their present miserable condition directly results from the act of the Government of the United States.

The nonreservation Indians of northern California are morally, and we believe, legally, entitled to redress from the National Government; and we venture to suggest a form of relief that will not injure its beneficiaries. A further form of relief is the establishment of schools for the Indian children. The Government has established and is now supporting six day schools and two training schools, whose pupils are nearly all from these nonreservation Indians. These Government schools have an enrollment of about 350. There are enrolled in the missionary and public schools about 300 more. A few school districts admit Indian children, but in the vast majority of districts racial prejudice debars those of Indian blood. We hope that in a generation or two this prejudice will pass away. In the meantime, fully 2,000 Indian children of school age are growing up without any instruction of any kind.

The nonreservation Indians of northern California are further subject to certain legal disabilities. As these Indians did not become citizens under the treaty Guadalupe Hidalgo, and as there has since been no legislation making them citizens, the State of California has regarded them as subject to the protection of the National Government, the same as other Indians; while since the failure of the treaties, the General Government has repudiated all responsibility for them as wards of the United States. This has left these nonreservation Indians without any recognized legal status, a fact which has, in those parts of California where racial prejudice against Indians is still strong, subjected them to much oppression and abuse.

THE NORTHERN CALIFORNIA INDIAN ASSOCIATION.
MRS. T. C. EDWARDS, *President*.
C. E. KELSEY, *Secretary*.

Mr. RAKER. Those figures were to be inserted?

The CHAIRMAN. We have a copy here. I would like, if I could, to give Mr. Meritt and Dr. Wooster here an opportunity to say something.

Mr. RAKER. I will be through in just a moment.

The CHAIRMAN. I would like to close at 12 o'clock to-day, and that would give them 30 minutes.

Mr. RAKER. Now, Mr. Chairman, what I have placed in the record, with what Mr. Meritt has, all of this data, I just want to recapitulate on this one matter.

I think clearly a *prima facie* case is made that there is a claim. The strength of it, the validity of it, what a court would hold, this committee will not pass upon, if there is a claim for these Indians and the Government took their land under an agreement and kept it and disposed of it, and the Indian agreed to certain things and made certain promises to carry them out, and they were all carried out; now, in a court of equity the Indian would certainly get relief. These Indians under every consideration should be given an opportunity to be heard.

Now, with that I ask that Mr. Meritt and the doctor be heard in relation to this matter.

STATEMENT OF MR. E. B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, we have been very glad to cooperate with Rev. Mr. Collett and Judge Raker in the preparation of this proposed legislation, and we have been glad to submit to this committee a favorable report thereon. If this bill is enacted by Congress it will permit these California tribes or bands of Indians to go to the Court of Claims and have their alleged claims against the Government finally adjudicated.

We believe that the California Indians have not received a square deal from the Government. The representatives of the Government entered into 18 treaties or agreements with the California Indians, and those treaties were submitted to the Senate in good faith by the President, but for reasons best known at that time they were not ratified by the United States Senate.

I will ask to have included at this point the resolution of the Senate returning the treaties to the President, which will be self-explanatory.

(The paper referred to follows:)

The eighteen treaties with Indian tribes in California received on the 7th and reported without amendment the 28th June, were severally read the second time, and considered as in Committee of the Whole; and no amendment being made thereto, they were severally reported to the Senate.

On the question being stated on each treaty, to wit, Will the Senate advise and consent to the ratification of this treaty?

It was unanimously determined in the negative by the following vote on each treaty:

Those who voted in the negative are,

Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Brodhead, Brooke, Charlton, Clarke, Cooper, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Foot, Geyer, Gwin, Hamlin, Hunter, Jones of Iowa, Mallory, Mangum, Miller, Norris, Pratt, Rusk, Shields, Smith, Soule, Spruance, Sumner, Toucey, Upham, Wade, Walker.

So it was respectively determined as follows, to wit:

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and entered into at Camp Belt, on King's River, in the State of California, on the thirteenth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains, and head men of the following tribes of Indians, to wit, the Ta-ches, Cah-wai, Yo-kol, Ta-lum-me, Wic-chum-ne, Hol-cu-ma, To-e-neche, Tu-hue-masch, In-tim-peach, Chol-nuck, We-mil-ches, and Mo-ton-toes, of the second part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and entered into at Camp Keyes, on the

Cahwai River, in the State of California, on the thirtieth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit, Ko-ya-te, Wo-la-si, Nu-chow-we, Wack-sa-che, Pal-wisha, Po-ken-welle, and Ya-wil-chine, of the second part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship formed and concluded at Camp Burton, on Paint Creek, in the State of California, on the third day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit, Chu nute, Wo-wol, Yo-lum-ne, Co-ye-tie, of the second part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and entered into at Camp Persifer F. Smith, at the Texon Pass, in the State of California, on the tenth day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit, Cas-take, Texon, San-Imirio, Uwas, Carises, Buena Vista, Sena-hu-ow, Holo-cla-me, Soho-nuts, To-cla-a, and Hol-mi-uh, of the second part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Dent and Vantine's Crossings, on the Stanislaus River, California, between the commissioner plenipotentiary of the United States of America, of the one part, and the chiefs, captains and head men of the Iou-ol-umne, We-chilla, Su-caah, Co-to-planemis, Chap-pah-sims and Sage-room-nes, tribes of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Union, near the Yaba River, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains and head men of the following tribes, viz, Daspia, Ya-ma-do, Yol-la-mer, Wal-de pa can, On-o-po-ma, Mon-e da, Wau-muck, Nem-shaw, Bem-pl, Ya-cum-na, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded near Bedwell's Ranch, on Chico Creek, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains and head men of the following tribes, viz, Mi-chop-da, Es-kuln, Ho-lo lu-pl, To-to, Su-mus, Che-no, Bat-si, Yut-duc, Sim-sa-wa, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Reading's Ranch, on Cottonwood Creek, California, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains and head men of the following tribes or bands, viz, Noi-ma, Noe-ma, Y-lac-ca, No-me, Noi-ma, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Colus, on the Sacramento River, California, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes or bands, viz, Colus, Wil-lays, Co ha-na, Tat-nah, Cha-doc-duc, Cham-net-co, Toc-de, of the other parts.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at the fork of Cosumnes River, between the United States Indian agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes, viz, Cu-lus, Yas-si, Loc-lum-ne, and Wo-pum-nes, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at the village of Temecula, California, between the United States Indian agent, O. M. Wozencraft, of the one part, and the captains and head men, of the following nations, viz, The nation of Sa Louis Rey Indians, the Kah-we-as and the tribe of Co-com-cah-raa, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at the village of Sant Ysabel, California, between the United States Indian agent, O. M. Wozencraft of the one part, and the captains and head men of the nation of Dieguin Indians of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty made and concluded on the nineteenth day of March, in the year eighteen hundred and fifty-one, at Camp Fremont, near the Little Mariposa River, in the State of California, between Redick McKee, George W. Barbour, and Oliver M. Wozencraft, commissioners appointed by the President of the United States to treat with the various tribes of Indians in the State of California, of the one part, and the chiefs, captains, and head men of the Si-yan-te, P6-to-yan-te Co-co-noon, Apang-as-se, Aplache, and A-wal-a-che, tribes of Indians, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Barbour, on the San Joaquin River, California, between Redick McKee, George W. Barbour, and O. M. Wozencraft, commissioners thereto specially appointed, on the part of the United States, and the undersigned chiefs, captains, and head men of the tribes or bands of Indians now in council at this camp, known as the How-ee-ees Chook-chanees, Chow-chil-lies, Po-ho nee-chees, and Nook-choos, which five tribes or bands acknowledge Nai-yah-quas as their principal chief; also the Pit-cat-chees, Cas-sous, Toom-nas, Tallin-chees, and Pos-ke-sas, which five tribes or bands acknowledge Tom-quit as their principal chief; also the Wa-cha-ees, Itachees, Cho-e-nem-nees, Cho-ki-men-as, We-mal-ches, and No-to-no-tos, which six tribes or bands acknowledge Pasqual as their principal chief, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Lu-pli-yu-ma, on the south side of Clear Lake, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the undersigned chiefs, captains, and head men of the tribes or bands of Indians now in council at this camp, known as the Ca-la-na-po tribe, represented by the Julio and captains; Na-bi-no-jo tribe, represented by the chief, Pri-e-to, and his captains; Da-do-ha-bo tribe, represented by the chief, Ku-kee; Mo-al-kai tribe, represented by the chief, Moh-shaw, and his captains; Che-com tribe, represented by the chief, Cal-i-a-hir and his captains; How-ku-ma tribe, represented by the chief, Chi-bec, and his captains; Cha-nel-kai tribe, represented by the chief, Cou-chu, and the Mo-dam-a-dec tribe, represented by the chief, Co-e-u-re, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Fernando Felix, on Russian River, California, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the undersigned chiefs, captains, and headmen of the tribes or bands of Indians now in council at this camp, known as the Sai-nell tribe, represented by the chief, Chas-kan and captains; Ya-ki-as tribe, represented by the chief Ko-yo-to-was-sa and captains; Mas-su-ta-ka-sa tribe, represented by the chief Cal-pel-la and captains; Po-mo tribe, represented by the chief Chi-bem, of the other part.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at Camp Klamath, at the junction of the Klamath and Trinity Rivers, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in California, on the part of the United States, and the chiefs, captains, and headmen of the tribes or bands of Indians now in council at this camp, representing the Poh-lk or Lower Klamath, the Peh-tsick or Upper Klamath, and the Hoo-pah or Trinity River Indians; containing also stipulations preliminary to future measures to be recommended for adoption on the part of the United States.

Resolved, That the Senate do not advise and consent to the ratification of the treaty of peace and friendship made and concluded at camp in Scott's Valley, Shasta County, California, between Redick McKee, one of the Indian agents specially appointed to make treaties with the various Indian tribes in Cal-

fornia, on the part of United States, and the undersigned chiefs, captains, and headmen now in council at this camp, representing the Upper Klamath, Shasta, and Scott's River Indians, residing severally in twenty-four, nineteen, and seven rancherias or villages, and known as the O-de-i-lah tribe or band, I-shak, chief, from the Upper Klamath River; I-ka-ruck tribe or band, Tso-hor-get-sho, chief; Ko-se-tah tribe or band, Ada-wai-how-ik, chief; I-da-kai-i-waka-ha tribe or band, I-da-kai-i-waka-ha, chief, from Shasta Valley; Wat-sa-he-wa tribe or band, Ar-rats-a-cho-i-ca, chief; E-en tribe or band, An-na-nik-a-hok, chief, from Scott's Valley, on the other part.

Ordered, That the Secretary lay the said resolutions, respectively, before the President of the United States.

Mr. MERITT. It is well known that at that time gold was discovered in California, and these lands suddenly became of considerable value and great pressure was brought to bear by the mining interests to prevent the ratification of these treaties.

We are very glad to cooperate in the preparation of this legislation, so that they might go to the Court of Claims and have their claims against the Government adjudicated. We are not at all in sympathy with the treatment that the California Indians have received in the past, in the remote past. During the last few years we have done everything that we could for these Indians with the appropriations available.

Now as to the number of the California Indians: It is claimed that there was a very much larger Indian population in California 50 or 100 years ago than there is now. The figures have ranged anywhere from 100,000 up to 700,000. I think the 700,000 figure is greatly exaggerated. During the last 20 years there has been but a slight variation in the population of the California Indians.

The CHAIRMAN. During the last how many years?

Mr. MERITT. During the last 15 years. And in order that the committee may have information as to the population during the last 15 years, I will ask permission to place the figures in the record at this point.

The CHAIRMAN. Without objection it is so ordered.

Mr. MERITT. The matter referred to follows:

Indian population of California.

1905.....	15,519	1913.....	16,513
1906.....	19,214	1914.....	15,226
1907.....	18,988	1915.....	15,034
1908.....	20,010	1916.....	15,335
1909.....	19,788	1917.....	15,362
1910.....	20,976	1918.....	15,725
1911.....	16,371	1919.....	16,215
1912.....	17,517		

Mr. MERITT. Congress has been making appropriations for the California Indian from time to time. These appropriations have consisted of two specific classes: First, the administrative appropriation which took care of our reservations in California, and in order that the committee may have information on this subject I will place in the record at this point a list of our reservations, and the population of Indians on those reservations.

(The matter referred to follows:)

States, superintendencies, and tribes.	Total population.	Male.	Female.	Minors.	Adults.	Full blood.	Mixed blood More than half.	Half or less.
California.....	16,215	8,219	7,996	5,575	10,640	11,172	3,295	1,740
Bishop School.....	1,518	725	793	372	1,146	1,223	187	10
Moache.....	50	30	20					
Palute.....	1,378	645	733	372	1,146	1,233	187	10
Shoshoni.....	90	50	40					
Campo School.....	229	115	114	80	149	203	25	
Mission Indians at Campo.....	139	79	60	49	90	127	12	
Cuyapaipa.....	10	4	6	1	9	10		
Laguna.....	4	2	2	1	3	3		
La Posta.....	10	3	7	4	6	9	1	
Manzanita.....	66	27	39	25	41	54	11	
Digger Agency—Digger.....	280	143	137	95	185	40	230	
Fort Bidwell School.....	719	339	380	237	482	707	8	
Digger.....	5	3	2	2	3	2		
Palute.....	206	119	87	92	114	205		
Pit River.....	508	217	291	143	365	500	8	
Fort Yuma School.....	968	519	449	387	581	933	31	
Cocopah.....	140	74	66	67	73	140		
Yuma.....	828	445	383	320	508	793	31	
Greenville School.....	2,924	1,488	1,436	1,027	1,897	1,455	376	1,940
Concow, Digger, and Washo.....	693	369	324	277	416	340	171	1,940
Redding District—various tribes.....	2,231	1,119	1,112	750	1,481	1,115	205	1,940
Hoopa Valley School.....	1,712	849	863	719	993	1,062	555	940
Bear River.....	28	19	9	14	14	20	8	
Eel River.....	118	62	56	55	63	98	20	
Crescent City.....	141	74	67	52	89	101	40	
Hupa.....	507	253	254	223	284	230	254	
Klamath.....	578	288	290	236	342	370	208	
Lower Klamath.....	340	153	187	139	201	243	25	
Malki School.....	628	344	284	226	402	510	32	
Mission Indians at Augustine.....	22	13	9	6	16	21		
Cabazon.....	20	16	13	7	22	28		
Martinez.....	122	74	48	38	84	115	2	
Mission Creek.....	9	7	2	4	5	9		
Morengo.....	246	132	114	106	140	137	30	
Palm.....	50	26	24	10	40	50		
San Manuel.....	57	28	29	14	43	57		
Torres.....	93	48	45	41	52	93		
Pala School.....	1,054	537	517	373	681	884	160	10
Mission Indians at Pala.....	208	90	109	75	133	161	37	10
Captain Grande.....	143	77	66	60	83	126	17	
La Jolla.....	240	130	110	90	150	234	6	
Pauma.....	57	25	32	20	37	56	1	
Pechanga.....	216	109	107	55	161	176	40	
Rincon.....	141	71	70	49	92	89	52	
San Pasqual.....	4	1	3	2	2	1	3	
Sycuan.....	45	25	20	22	23	41	4	
Round Valley School—Concow, Ukie, and others.....	1,842	931	911	706	1,046	1,042	1,042	1,120
Soboba School.....	896	494	402	313	583	664	185	6
Mission Indians at Soboba.....	126	67	59	37	89	111	15	
Cahuilla.....	124	64	60	34	90	117	7	
Inaja.....	35	18	17	12	22	35		
Los Coyotes.....	110	66	44	12	69	110		
Mesa Grande.....	195	111	84	70	116	95	38	
Santa Rosa.....	60	35	25	10	50	60		
Santa Ynez.....	71	37	34	24	47	3	68	
Volcan.....	175	96	79	76	99	132	42	

1 1910 census.

* Estimated.

States, superintendencies, and tribes.	Total population.	Male.	Female.	Minors.	Adults.	Full blood.	Mixed blood.	
							More than half.	Half or less.
Tule River School.....	445	235	210	200	245	431	14	.....
Tule River.....	158	93	65	200	245	431	14	.....
Auberry.....	151	76	75					
Burrough.....	136	66	70					
Scattered tribes—Digger—under Special agent, Reno, Nev.....	1 3,000	1,500	1,500	750	2,250	2,400	450	150

¹ 1910 census.

Mr. MERITT. Congress has also been making appropriations for the purchase of lands for the California Indians covering a period of years. Several years ago we had employed as a representative of the Indian Bureau Mr. Kelsey, who made the report cited by Judge Raker. Mr. Kelsey spent considerable time in purchasing lands for California Indians out of appropriations made by Congress.

Mr. RHODES. Have those Indians practically all been provided with homes?

Mr. MERITT. We have provided homes for approximately 5,000 Indians, and it is estimated that there are about 3,000 Indians who are at this time without lands; and in order that the committee may have full information on that subject I will place in the record at this point, if agreeable, the names of the bands of Indians for whom lands have been purchased, the number of Indians in those bands, and also the number of acres that have been purchased for them.

(The matter referred to follows:)

Lands purchased for California Indians.

[Money appropriated by the acts of June 21, 1906 (34 Stat. L., 325-333), \$100,000; Apr. 30, 1908 (35 Stat. L., 70-76), \$50,000; total, \$150,000.]

SHEET (A).

Band.	Num- ber Indians.	Acres.	Amount paid.	Grantor.	File number.	Office record.		County.	County record.	
						Vol- ume.	Page.		Vol- ume.	Page.
San Manuel.....	56	5, 13	\$1,785.50	M. C. Yorke.....	70999-07	6	74	San Bernardino.....	411	69
Do.....	56	7.5	200.00	R. L. Butterford.....	27144-08	6	77	do.....	411	82
Trinidad.....	48	60	1,198.50	Wm. Redwood Lumber Co.....	72531-07	6	178	Humboldt.....	102	156
Runsey.....	43	75	2,000.00	W. B. Bayley.....	25060-08	6	163	Yolo.....	71	293
Pechanga or Teneculla.....	179	235	6,650.00	Philip Polman.....	70863-07	6	72	Riverside.....	285	130
Las Coyotes.....	163	160	800.00	John Mason.....	12184-08	6	59	San Diego.....	130	134
Horland.....	120	630	3,750.00	J. W. Daw.....	74404-07	6	136	Mendocino.....	109	451
Fina and Ruffey's.....	56	480	2,208.00	Central Pacific R. R. Co.....	700-08	6	135	Siskiyou.....	78	200
Colts.....	63	40	3,800.00	J. McMillan.....	74868-07	6	111	Colusa.....	65	138
Cabito Laytonville.....	98	200	2,500.00	J. H. Braden.....	75321-08	6	139	Mendocino.....	109	375
Blue Lake or Mud River.....	45	28	1,500.00	Brizard Estate.....	71894-07	6	145	Humboldt.....	107	224
Polasky or Millerton.....	55	140.86	1,500.00	A. Bollinger.....	3034-08	6	62	Madara.....	29	470
Cortina.....	47	480	4,800.00	Porteus & Johnston.....	82883-07	6	159	Colusa.....	65	100
Campo.....	165	720	12,500.00	J. P. Becker.....	97576-07	6	69	San Diego.....	433	312
Do.....	165	160	800.00	L. & O. Smith.....	70738-07	6	114	do.....	439	119
Do.....	165	160	1,200.00	L. A. Dyball.....	19125-08	6	75	do.....	431	135
Upper Lake.....	288	143	5,000.00	Chas. E. Hardisty.....	19125-08	6	201	Lake.....	42	411
Lower Fel River.....	60	20	3,000.00	P. Quinn.....	80013-08	6	182	Humboldt.....	107	417
Grindstone.....	56	80	1,050.00	San Francisco Savings Union.....	22266-09	6	203	Glenn.....	B-29	103
Gulleville.....	92	50	2,000.00	Louise Garaventa.....	22266-09	6	206	Mendocino.....	116	108
Coyote Valley.....	18	100	2,484.80	Mack Howard.....	22267-09	6	308	do.....	116	100
Porter Valley.....	72	16	2,000.00	Joseph Spolswood.....	8321-08	6	189	do.....	116	197
Fan Pasquil.....	66	120	1,500.00	William Reed.....	8321-08	6	191	San Diego.....	463	335
Do.....	66	120	300.00	T. H. Cooner.....	42286-09	6	191	do.....	461	415
Redwood Valley and Little River.....	51	80	2,000.00	W. A. & E. M. Ford.....	70953-07	6	210	Mendocino.....	116	290
Palm Springs.....	35	800	6,000.00	B. B. Barney.....	90725-09	6	165	Riverside.....	276	96
East Lake.....	131	88	6,000.00	J. B. Rolison.....	71070-08	6	227	Lake.....	45	20
Point Arena or Manchester.....	91	75	4,984.75	W. F. Foster.....	41822-09	6	212	Mendocino.....	111	210
San Joaquin or Big Sandy.....	114	290	2,800.00	J. H. Hudson.....	77389-07	6	223	Fresno.....	441	184
Smith River.....	74	24	1,800.00	Geo. F. Stockstill.....	15242-09	6	110	do.....	26	9
Middletown or Loomami.....	163	163	7,300.00	Wm. Wedbrook.....	80122-08	6	300	Lake.....	49	332
Shawwood.....	51	104.70	2,650.00	Chas. G. Ritter.....	67399-10	6	239	Mendocino.....	121	329
Truettville.....	92	204.72	6,750.00	Hay Bros.....	67399-10	6	211	Truettville.....	70	363
Bear River.....	74	289.62	3,500.00	J. H. Smith.....	47007-11	6	254	Humboldt.....	116	183
Do.....	29	15	1,500.00	J. F. Benton and wife.....	47007-11	6	260	Lake.....	10	53
Lead Valley.....	90	56.08	2,000.00	John Barnes and Arthur P. Ford.....	47007-11	6	260	Lake.....	10	53

Utiah or Pineville.....	130	95.28	8,500.00	E. M. Ford and wife.....	00500-11	6	302	Mendocino.....	133	283
Point Arena.....	40		600.00	Northern California Indian Asso- ciation.....	95500-11	6	277	do.....	130	242
Guidoville.....		34.12	2,100.00	Little H. McClure.....	12029-12	6	373	do.....	135	164
Bishop.....		15	1,125.00	R. I. Linden.....	65770-13	6	371	Inyo.....	25	266
Wapoo.....		30	2,500.00	Corrella Matthew.....	78520-13	6	355	Sonoma.....		
Crescent City.....	50	100	3,500.00	John Schmoker.....	91346-09	9	186	Del Norte.....	2	402
Carried forward.....	3,056	6,593.51	144,470.45							

SHEET (B).

Dry Creek.....	75	75	1,875.00	C. H. Wilson.....	108465-14	6	440	Sonoma.....		
Stewart's Point.....	118	40	1,100.00	Louisa Nobles.....	108465-14	6	463	do.....		
Eldorado.....	53	80	1,500.00	Mrs. L. H. Thomas.....	108465-14	6	447	Eldorado.....		
Santa Rosa.....	70	640	2,560.00	Southern Pacific Land Co.....	25981-08	6	442	Riverside.....		
Pitt River.....	30	40	785.00	Central Pacific Ry.....	108465-14	6	450	Shasta.....		
Colfax.....	64	40	800.00	C. W. Haff.....	108465-14	6	449	Placer.....		
Sebastopol.....	76	40	1,600.00	Geo. Schelling.....	108465-15-14	6	467	Sonoma.....		
Gearyville.....	82	17	1,000.00	Wm. A. Meikle.....	108465-13-14	6	470	do.....		
Mariontown.....	13	80	1,700.00	Wm. A. Meikle.....	108465-4-14	7	471	Modoc.....		
Sherrill Ranch.....	12	40	120.00	W. R. Cunningham.....	108465-6-14	6	471	Butte.....		
Enterprise No. 1.....	31	40	100.00	Central Pacific Ry.....	108465-12-14	6	476	Butte.....		
Pitt River.....	55	40	400.00	do.....	108465-3-14	6	469	Shasta.....		
North Fork.....	210	80	1,000.00	T. J. Henderson.....	108465-14-14	6	478	do.....		
Sherwood.....	41	60	334.81	A. W. Frederick.....	108465-23-13	11	238	Madera.....		
Enterprise No. 2.....	8	40	431.81	J. C. Johnson.....	131707-13	11	241	Butte.....		
Table Mountain.....	90	160	162.56	Central Pacific Ry.....	108465-16-14	6	473	Yerba.....		
Strawberry Valley.....	14	60	1,600.00	O. J. Christensen.....	9524-108465-74	Misc. 7	11	Fresno.....		
Pauline.....	60	80	248.70	Mrs. F. M. Keith.....	1084-P-14	Misc. 7	55			
Casho Creek Ranch.....	35	120								
Total.....	4,737	8,580.01								

Improvements only.

Mr. RHODES. About how many Indians would be entitled to participate under the benefits of this act should it become a law?

Mr. MERITT. Practically all of the Indians in California at this time, which would number between 15,000 and 20,000.

The CHAIRMAN. What do the Indians do for a living who have not got lands?

Mr. MERITT. They work on the fruit ranches in California and do various classes of work on the farms, ranches, and in the forests.

Mr. RHODES. Do I understand, then, that the lands that they have been deprived of have turned out to be rich mining claims—gold mining claims?

Mr. MERITT. The lands that they were deprived of have proven to be not only valuable for mining purposes, but also for agricultural purposes.

Mr. RHODES. Does that signify, then, in the event this legislation should become effective that there would be a large sum of money due the Indians?

Mr. MERITT. Undoubtedly the California Indians will win a judgment under this legislation if passed, and there will be a considerable amount of money awarded to them, because they relinquished, at the time these treaties were made, a large acreage of land, and the terms of those treaties were not carried out—at least not entirely—by the Federal Government.

Mr. RHODES. What I was just considering was, if some of those lands included the rich gold mining properties of California, a very fabulous sum might be found for these Indians.

Mr. MERITT. Of course I judge that the award made by the court would be on the basis of the value of the land at the time the treaties were entered into, and that it would not affect the title to the lands at this time. I do not believe that anyone would attempt to disturb the titles to lands in California, but simply to get for the Indians the reasonable value of the lands at the time the treaties were made, so that the understanding of the Government with the California Indians would be carried out.

Mr. RHODES. I am sure that the title could not be affected under the provisions of this act, but I am not so sure what rule would be applied in determining the amount of money that might be due the Indians.

The CHAIRMAN. Is there any rule of the Supreme Court in regard to that which has already been established?

Mr. MERITT. I know of no special rule on the subject, but I believe the court would hold that the value of the land at the time the treaties were entered into would be the basis of reaching a judgment.

Mr. RAKER. Now, before you leave that, Mr. Meritt, as you have stated, this bill and the purpose of it, and the jurisdiction under the bill could not under any circumstances even put a cloud upon or affect the title to the land in any way, shape or form.

Mr. MERITT. No, sir; and we would not be in favor of legislation that would place a cloud upon the title to lands in California.

The CHAIRMAN. But as Mr. Rhodes has suggested, because there could easily be worked up a claim for a fabulous amount of money, if these lands turned out to be gold mines and things of that sort, it might be well to limit that.

Mr. MERITT. Mr. Chairman, in addition to placing in the record a list of the agencies in California and the amount of land that had

been purchased for the California Indians, I would like to place in the record a list of the schools that we are now maintaining in California for the California Indians. I would like to say that in addition to educating Indians in these schools we are cooperating with the State of California in educating some of the California Indian children off the reservations. The California Indian has been held by the courts to be a citizen of the State, and we are trying to get the State of California to assume its full share of this responsibility, but we are cooperating with them to the limit with the amount of money that is available.

The CHAIRMAN. There will be no objection to that.

Mr. MERITT. The matter referred to follows:

Government schools in California, Sept., 1919, to Mar. 1, 1920.

Name.	Post office.	Capacity.	Average enrollment.	Average attendance.	Kind.
Bishop superintendency:					
Bishop.....	Bishop.....	60	48	34	Day.
Big Pine.....	Big Pine.....	30	19	15	Day.
Independence.....	Independence.....	20	10	9	Day.
Pine Creek.....	Round Valley.....	30	20	17.4	Day.
Campo.....	Campo.....	30	14	14	Day.
Fort Bidwell.....	Fort Bidwell.....	98	82	82	Nonreservation boarding.
Fort Yuma superintendency:					
Fort Yuma.....	Yuma, Ariz.....	180	123	119	Reservation boarding.
Cocopah.....	Somerton, Ariz.....	40	16	12	Day.
Yuma Valley.....	Yuma, Ariz.....	40			Day.
Greenville.....	Greenville.....	90	114	104	Nonreservation boarding.
Hoopa Valley.....	Hoopa.....	165	156	138	Reservation boarding.
Pala superintendency:					
Pala.....	Pala.....	30	25	22	Day.
La Jolla.....	Valley Center.....	39	15	13	Day.
Rincon.....	Valley Center.....	14	7	6	Day.
Round Valley superintendency:					
Pinotville.....	Ukiah.....	25	18	9	Day.
Upper Lake.....	Upper Lake.....	30	21	16	Day.
Yokala.....	Ukiah.....	40	18	11	Day.
Sherman Institute.....	Riverside.....	700	699	608	Nonreservation boarding.
Soboba superintendency:					
Mesa Grande.....	Mesa Grande.....	30	15	14	Day.
Volcan.....	Santa Ysabel.....	30	20	14	Day.
Tule River superintendency:					
Auberry.....	Auberry.....	32	24	17	Day.
Burrough.....	Toll House.....	34	24	20	Day.
Tule River.....	Porterville.....	30	15	14	Day.

Mr. MERITT. I believe that is all I wish to say, Mr. Chairman. The appropriations made by Congress for the benefit of California Indians are as follows:

Statement showing the amounts appropriated and expended from appropriations for California Indians since July 1, 1852.

Acts.	Statutes.	Purpose for which appropriated.	Amount appropriated.	Expended.	
				Year.	Amount.
Aug. 30, 1852	10, 56	For preservation of peace, etc.....	\$100,000.00	1852	\$99,951.70
Mar. 3, 1853	10, 238	For removal, subsistence, etc.....	250,000.00	1853	250,000.00
July 31, 1854	10, 332	.....do.....	200,000.00	1854, 1855	200,000.00
Mar. 3, 1855	10, 696	.....do.....	125,000.00	1856	125,000.00
Do.....	10, 699	.....do.....	150,000.00	1856	150,000.00
Aug. 18, 1856	11, 79	.....do.....	91,650.00	1857	91,650.00
Mar. 3, 1857	11, 183	.....do.....	162,000.00	1858	162,000.00

Statement showing the amounts appropriated and expended from appropriations for California Indians since July 1, 1852—Continued.

Acts.	Statutes.	Purpose for which appropriated.	Amount appropriated.	Expended.	
				Year.	Amount.
June 12, 1854	11, 330	For removal, subsistence, etc.	\$162,000.00	1859-1862	\$162,000.00
June 16, 1860	12, 57	do.	50,000.00	1862, 1863	50,000.00
Mar. 2, 1861	12, 236	do.	25,000.00	1864-1869	25,000.00
July 5, 1862	12, 530	For removal, subsistence, etc.; also clothing, cattle, etc.	40,000.00	1862, 1863	40,000.00
Mar. 3, 1863	12, 790	do.	50,000.00	1863, 1864	50,000.00
June 25, 1864	13, 179	For cattle, subsistence, clothing, farm implements, etc.	55,000.00	1864-65	55,000.00
Mar. 3, 1865	13, 557	do.	55,000.00	1865, 1866	55,000.00
July 26, 1866	14, 278	do.	55,000.00	1866, 1867	55,000.00
Mar. 2, 1867	14, 513	do.	55,000.00	1867, 1868	55,000.00
July 27, 1868	15, 221	do.	40,000.00	1868, 1869	40,000.00
Mar. 2, 1867	14, 513	Grist and saw mill, Round Valley Reservation	5,000.00	1867	5,000.00
July 27, 1867	15, 221	For cattle, subsistence, clothing, farm implements, etc.	5,000.00	1869	5,000.00
Apr. 10, 1869	16, 37	do.	60,000.00	1870	57,322.19
July 15, 1870	16, 357	Goods, farm implements, etc.	75,000.00	1871	75,000.00
Mar. 3, 1871	16, 566	do.	75,000.00	1872	75,000.00
May 29, 1872	17, 187	do.	85,000.00	1873	85,000.00
Feb. 14, 1873	17, 459	do.	85,000.00	1874	79,771.89
Mar. 3, 1873	17, 539	Goods, farm implements, etc. (deficiency)	10,000.00	1873	10,000.00
June 22, 1874	18, 171	Goods, farm implements, etc.	70,000.00	1875	69,367.21
Do.	18, 141	do.	12,753.04	1875	11,444.01
Mar. 2, 1875	18, 445	do.	60,000.00	1876	54,238.40
Aug. 15, 1876	19, 198	do.	30,070.00	1877	29,372.01
Mar. 31, 1877	19, 292	do.	25,000.00	1878	24,784.63
May 27, 1878	20, 85	For incidental expenses, including support and civilization	35,000.00	1879	31,639.15
Feb. 17, 1879	20, 314	do.	35,000.00	1880	35,000.00
May 11, 1880	20, 130	do.	32,000.00	1881	31,711.77
Mar. 31, 1881	20, 500	do.	32,000.00	1882	31,088.99
May 17, 1882	22, 84	do.	32,000.00	1883	31,830.35
Mar. 1, 1883	22, 447	do.	29,000.00	1884	25,574.08
July 4, 1884	23, 33	do.	29,000.00	1885	28,845.80
Mar. 3, 1885	23, 379	do.	23,000.00	1885	25,493.50
May 15, 1886	42, 42	do.	26,000.00	1887	23,345.92
Mar. 2, 1887	24, 462	do.	26,000.00	1888	24,127.96
June 29, 1888	25, 232	do.	27,000.00	1889	25,673.56
Mar. 2, 1889	25, 969	do.	27,000.00	1890	26,624.13
Aug. 19, 1890	26, 352	do.	27,000.00	1891	26,508.24
Mar. 3, 1891	26, 1006	do.	28,000.00	1892	27,394.14
July 1, 1892	27, 62	Lands and improvements for Mission Indians	5,000.00	1893	5,000.00
July 13, 1892	27, 136	Support, etc., Mission Indians	10,000.00	1893	4,963.93
Do.	27, 136	do.	24,000.00	1893	22,315.29
Mar. 3, 1893	27, 628	do.	10,000.00	1894	6,912.65
Do.	27, 628	Support, etc., Digger Indians	10,000.00	1894	10,000.00
Do.	27, 628	Support, etc.	24,000.00	1894	22,542.42
Aug. 15, 1894	28, 302	Support, etc., Digger Indians	10,000.00	1895	8,600.00
Do.	28, 303	Support, etc., Mission Indians	10,000.00	1895	9,735.92
Do.	28, 304	Support, etc.	23,000.00	1895	19,176.00
Mar. 2, 1895	28, 892	Support, etc., Mission Indians	10,000.00	1896	8,866.87
Do.	28, 893	Support, etc.	21,000.00	1896	16,538.17
June 10, 1896	29, 337	Support, etc., Mission Indians	10,000.00	1897	6,495.37
Do.	29, 338	Support, etc.	21,000.00	1897	18,742.95
June 7, 1897	30, 77	Support, etc., Digger Indians	3,000.00	1898	1,066.16
Do.	30, 78	Support, etc.	21,000.00	1898	15,793.83
July 1, 1898	30, 78	Support, etc., Mission Indians	10,000.00	1899	8,932.11
Do.	30, 585	do.	3,000.00	1899	2,909.89
Do.	30, 586	Support, etc.	21,000.00	1899	14,393.70
Mar. 1, 1899	30, 837	Support, etc., Digger Indians	2,500.00	1900	1,441.67
Do.	30, 838	Support, etc., Mission Indians	3,000.00	1900	3,000.00
Do.	30, 838	Support, etc.	21,000.00	1900	14,652.12
Mar. 3, 1899	30, 1234	Support, etc., Digger Indians (deficiency)	500.00	1900	450.00
May 31, 1900	31, 214	Support, etc., Digger Indians	2,500.00	1901	1,567.60
Do.	31, 235	Support, etc., Mission Indians	1,500.00	1901	1,500.01
Do.	31, 235	Support, etc.	15,000.00	1901	12,512.11
Mar. 3, 1901	31, 1071	Support, etc., Digger Indians	2,500.00	1902	1,648.02
Do.	31, 1072	Support, etc., Mission Indians	3,000.00	1902	871.66
Do.	31, 1073	Support, etc.	15,000.00	1902	11,183.77
May 27, 1902	32, 255	Support, etc., Digger and Mission Indians	1,500.00	1903	1,500.00
Do.	32, 257	Support, etc., including purchase of land, etc.	100,000.00	1903	100,000.00
Do.	32, 257	Support and civilization, etc.	15,000.00	1903	12,119.19
Mar. 3, 1903	32, 992	Support, etc., Digger Indians	1,600.00	1904	1,014.51
Do.	32, 993	Support, etc.	15,000.00	1904	12,808.12
Apr. 21, 1904	33, 203	do.	12,000.00	1906	10,519.04
Do.	33, 1057	Support, etc., Mission Indians	5,000.00	1905	4,800.00

Statement showing the amounts appropriated and expended from appropriations for California Indians since July 1, 1852—Continued.

Acts.	Statutes.	Purpose for which appropriated.	Amount appropriated.	Expended.	
				Year.	Amount.
Mar. 3, 1905	33, 1058	Support, etc., Northern Indians	\$10,000.00	1906	\$1,184.75
Do.....	33, 1058	Support, etc.	12,000.00	1906	10,818.68
June 21, 1906	34, 333	Support and civilization, etc.	11,000	1907	10,690.65
Do.....	34, 333	Support, etc., Mission Indians	5,000	1907	4,378.56
Do.....	34, 333	Support, etc., Northern Indians	10,000	1907	104.70
Do.....	34, 333	Land, etc.	100,000	1907-1909	100,000.00
Mar. 1, 1907	34, 1022	Support, etc.	11,000	1908	10,790.27
Do.....	34, 1022	Support, etc., Mission Indians	5,000	1908	3,867.28
Do.....	34, 1022	Support, etc., Northern Indians	10,000	1908	10,000.00
Apr. 30, 1908	35, 76	Support, etc., Mission Indians	15,000	1909	12,924.05
Do.....	35, 76	Support, etc., Northern Indians	20,000	1909-1911	20,000.00
Do.....	35, 76	Land, etc.	50,000	1909-1911	50,000.00
Do.....	35, 77	Support, etc.	11,000	.....	10,744.49
Do.....	35, 77	For wagon road, Hoopa Valley	10,000	.....	9,998.43
Mar. 31, 1909	35, 787	Support, etc., Mission Indians	20,000	1910	19,419.59
Do.....	35, 787	Support, etc., including purchase of land	20,000	1910	19,810.32
Do.....	35, 787	Support, etc.	11,000	1910	10,263.23
Apr. 4, 1910	36, 273	Support, etc., including land	42,000	1911	39,190.03
Mar. 3, 1911	36, 1062	.....do.....	57,000	1912	55,612.08
Aug. 24, 1912	37, 523	.....do.....	57,000	1913	53,932.29
June 30, 1913	38, 86	.....do.....	57,000	1911	57,000.00
Do.....	38, 86	Wagon road, Hoopa Valley	5,000	1914	5,000.00
Aug. 1, 1914	38, 589	Support and civilization	42,000	1915-16	40,456.27
Do.....	38, 589	Purchase of land for Indians	10,000	1915-16	10,000.00
Mar. 4, 1915	38, 1228	Support and civilization	42,000	1916	40,981.67
Do.....	38, 1228	Purchase of lands for Indians	10,000	1916	4,123.91
May 18, 1916	39, 132	.....do.....	10,000	1917	1,841.48
Do.....	39, 132	Support and civilization	42,000	1918	41,006.22
Mar. 2, 1917	39, 975	.....do.....	42,000	1918	41,054.58
Do.....	39, 975	Purchase of land, etc.	20,000	1918	250.80
May 25, 1918	40, 570	.....do.....	20,000	1919	13,123.00
Do.....	40, 570	Support and civilization	42,000	1919	41,466.97
June 30, 1919	(1)	.....do.....	42,000	1920	35,833.67
Do.....	(1)	Purchase of land, etc.	20,000	1920	.....
Feb. 14, 1920	(1)	.....do.....	10,000	1921	.....
Do.....	(2)	Support and civilization	42,000	1921	.....
Total.....			4,080,803.04	.....	3,825,567.35

¹ Public No. 3, p. 11.

² Public No. 141, p. 12.

NOTE.—The foregoing statement includes appropriations made exclusively for Indians in California for support, civilization, etc., since 1852, and the amounts expended therefrom. It does not include any expenditures which may have been made from general appropriations or for schools, etc.

The CHAIRMAN. Does the bureau request that this legislation be put in at this time?

Mr. MERITT. Yes, sir; we feel that the California Indians have not been treated fairly by the Government; that they have a just claim against the Government; that they ought to have the opportunity to go to the Court of Claims to have that claim tried out, with the understanding that if either side is not satisfied with the judgment of the Court of Claims they may appeal to the Supreme Court.

The CHAIRMAN. Would the bureau and all parties concerned be willing to have written in this bill, on page 2, line 7, after the word "paid" the words "including gratuities."

Mr. MERITT. We think that that language should go into the bill. It is practically covered in the next line, line 9—beginning with line 9—"and the United States shall be allowed credit for all sums heretofore paid or expended for the benefit of said tribes or any band thereof." But in order to make it perfectly clear I think the language you suggest, Mr. Chairman, should go into the bill.

I might say that we discussed this California situation somewhat extensively in the hearings before the Senate Indian Committee in February, 1919, and the statements of Judge Raker, Rev. Mr. Collett—

The CHAIRMAN (interposing). Do I understand Judge Raker to agree to that language?

Mr. RAKER. I thought it was in substance in the bill, Mr. Chairman.

The CHAIRMAN. Well, if it is in there in substance, then it would not do any harm to have it in specifically.

Mr. RAKER. As to what Mr. Meritt says I think it will be the proper thing to include it.

The CHAIRMAN. If the bill gets on the calendar, I think that will help it.

Mr. RAKER. I think under all the circumstances, to make it specific so that no one could raise any question as to the words, you had better put in "gratuities."

Mr. MERITT. I agree with Judge Raker on that.

Mr. RHODES. I would like to ask Mr. Meritt a question or two, Mr. Chairman:

On page 2, section 2, in alluding to the character of suits, it provides that "both legal and equitable, of each and all the parties thereto, notwithstanding lapse of time or statutes of limitation." Now to what particular statutes of limitation is the reference here; statutes of limitation with regard to land titles, or statutes of limitation with regard to the right of the Indians to recover a sum of money against the Government?

Mr. MERITT. The right of the Indian to recover the money; that is, the wording is to place it on an equitable basis so that the Indians will have a right to bring in their claim. And you will note that the Government will have the same right to offset any such claims.

Mr. RHODES. I ask that question in order to be assured that the statutes of limitations here referred to have no reference to land titles, in order that it may be consistent with the object and purposes of the act to settle a claim which in no way would affect land titles, but would deal with money consideration only.

Mr. MERITT. This bill will not attack land titles in California and it is not intended that it shall do so.

The CHAIRMAN. It seems to the chairman of this committee that there is certainly some justice in this proposition. The lands evidently were taken away from the Indians, and some of them have received no compensation whatever. Agreements were entered into between the Government agencies and the Indians that have not been carried out, so far as this testimony goes, in any way by the Government, and the only reason that I can think of for not carrying them out was the fact that the treaties were not ratified, and probably the Government agencies went on the theory that there was no necessity for it so long as they were not ordered to do it by treaty or by law; but that ought not to affect the right of the Indians to get at least the value of the land at the time it was taken away from them, and this looks like a pretty fairly clear case and I can't see right now any reason why they should not have the opportunity to demonstrate that.

Mr. RAKER. Every investigation made, Mr. Chairman, by all of the organizations in California, came to the same conclusion that Mr. Meritt has just stated to the committee and as stated in that letter from Mr. Kelsey, that these agreements were entered into; the Indians complied with all their part and the Government did not comply with its part. It took the land but gave them nothing.

The **CHAIRMAN.** Now we will let Dr. Wooster have a few minutes.

Mr. W. M. WOOSTER. If it please the committee, Mr. Meritt has so thoroughly covered the situation that there is nothing that I can add.

The **CHAIRMAN.** That is perfectly agreeable to the committee.

Mr. RAKER. And, Dr. Collett, from your examination that will be about the same as Dr. Wooster's, will it not?

STATEMENT OF REV. FREDERICK G. COLLETT, EXECUTIVE REPRESENTATIVE OF THE INDIAN BOARD OF COOPERATION (INC.), OF CALIFORNIA AND ADJACENT STATES.

Mr. COLLETT. I shall not attempt to make a statement on this subject, because it has been very thoroughly covered. There are, however, two items in this connection which should be called to your attention. They both bear directly upon the matter before your committee.

The first is a letter to the Secretary of the Interior under date of December 10, 1919, by the special committee of the Indian Board of Cooperation. The communication deals specifically with the California Indian problem and bears the signatures of some of our most representative Californians, including the signatures of the presidents of each of the universities and colleges in California. As a member of that committee, the letter may appear as my statement.

The second item, also important in this connection, is that of a report by the Board of Indian Commissioners. Mr. McDowell, the member of that commission who made the investigation and prepared the report, is present, and I am sure will be glad to explain the maps and other illustrations which make very clear the situation relative to the 18 treaties. The report is especially worthy of your attention at this time.

The **CHAIRMAN.** Is it the desire to have the report of the Indian Commissioners printed in this report?

Mr. RAKER. I am going to ask Mr. Meritt if that was printed in pamphlet form by the department.

Mr. MERITT. No, sir; the Indian Bureau is also making an investigation of the entire California situation at this time, and we expect to have a very complete report covering all phases of the California situation, to be presented to Congress at the next session, and we would like to have at that time both the report of the Indian Bureau and the report of the Board of Indian Commissioners printed, so that it might be seen by Congress. Of course, we have no objection to the printing of this report here.

The **CHAIRMAN.** Now, since you are making that exhaustive investigation, do you desire that this legislation should proceed ahead of that?

Mr. MERITT. That report will not affect this legislation; it will only enable us to present to Congress what things we should do adminis-

tratively for the California Indians at this time. It will not affect the claims of the California Indians; therefore Congress can at this time take action on the jurisdictional bill without waiting for further reports from the Indian Bureau.

(Mr. Collett submitted the following paper:)

FOR THE HONOR OF AMERICA AND CALIFORNIA.

In this review of the facts touching the Indians of California the following points will be substantiated:

First. The pledge of the United States to the Indians in the treaty of Guadalupe Hidalgo was violated by a disgraceful subterfuge.

Second. Agreements. The treaties of 1851 and 1852 have not been fulfilled.

Third. Much well-intentioned Federal legislation has met with miscarriage. Why? (1) Conflicting legislation; (2) the failure of Congress on many occasions to properly inform itself as to the facts in the possession of its own committees, and the further failure of Congress and its committees to acquire other facts easily accessible; (3) failure on the part of governmental agencies to put into action the will of Congress, sometimes through incompetency, sometimes apparently through purpose.

Fourth. In many instances lands purchased by special agents of the Government for Indians have been of little value, and in some cases of no value.

Fifth. Solution. (1) Investigation; (2) legislation; (3) supervision.

Sixth. Congress should provide adequate funds (1) to purchase land; (2) to supplement State provision for education; (3) to relieve the indigent.

Seventh. Unification of purpose and effort is necessary.

INDIAN BOARD OF COOPERATION OF CALIFORNIA (INC.).

December 10, 1919.

HON. FRANKLIN K. LANE,

Secretary of the Interior, Washington, D. C.

DEAR SIR: In full recognition of your general knowledge of the Indian situation in California and of your keen sense of justice, the undersigned Special Committee of the Indian Board of Cooperation of California, believes it to be highly in the interest of fair play and an urgent obligation to the dependent and unfortunate Indians of this State to call your attention respectfully and specifically to some items that require a thorough investigation, remedial legislation and congressional appropriations.

That the correctness of our presentation may be easily verified and that the premises for our conclusions may be readily established without delay, we shall confine our compilation of facts chiefly to matters of public records and of common knowledge. The needs are:

First. A Federal Commission to make a thorough survey of the entire Indian situation and to supervise congressional undertakings in California relative thereto.

Second. Appropriations, (1) for the expense of a Federal investigation and supervision of California Indian matters; (2) for the purchase of adequate and permanent allotments with improvements thereon for the homeless Indians; (3) for school buildings and equipment for Indian children in districts where their numbers and necessity demand it; (4) for a tuition to be paid to the trustees of school districts in California where Indian children may be admitted, providing funds for proper equipment are available; (5) for the purpose of aiding county supervisors in caring for sick, aged, and otherwise dependent Indians; (6) for a reimbursable fund to enable industrious Indians to buy farming implements and other necessities for the purpose of making the best use of their land and for the essential house furnishings.

Third. The appointment of a Federal agent to assist California Indians in gaining public school advantages, county and State aid for orphans and proper care for sick and aged Indians.

Fourth. A more consistent practice of the professed governmental policies regarding the education of Indian children in public schools and of other matters pertaining to Indian betterment, and also a more definite and authoritative understanding and cooperation with the State and county officers concerning the care of sick and indigent Indians and the education of Indian children.

I. FEDERAL COMMISSION OF INVESTIGATION AND SUPERVISION.

The need of a Federal commission, who shall be well acquainted with the problems that are peculiar to California and the laws that are applicable to the Indian questions, to make a thorough survey of all Indian matters in California and to supervise Federal undertakings related thereto, is pressing and conspicuous. This is evidenced by every State and Federal record concerned and by all testimony that has been or may be adduced. The evidence is clear that the United States Congress, notwithstanding its good intentions to deal justly with these Indians, has signally and pitifully failed. So far as these Indians are concerned, our guarantee in the treaty of Guadalupe Hidalgo, to preserve to them their rights in land, etc., have proven to be a worthless "scrap of paper."

The report of a special agent of the Department of the Interior, 1906, concerning this matter is worthy of note. It should be stated that he was a duly qualified attorney and had given special attention to delving into records pertaining to land titles. The report in part follows:

"The treaty of Guadalupe Hidalgo, ceding California to the United States, guaranteed Mexican land titles in the ceded territory as they stood at the time of transfer. Under the Spanish and Mexican law the Indians had certain rights in the land they occupied and could not be legally evicted from it. The acts of Congress which provided for the settlement of titles to Spanish and Mexican grants imposed upon the commission appointed to make the settlement, the duty of first setting apart for Indian use all lands occupied by them. It may, therefore, be assumed that Congress considered that the Indians had substantial rights. It was a duty of the commission to investigate and confirm the Indians' title wherever Indians occupied lands included within the limits of Spanish and Mexican grants. Your special agent has found that two cases out of several hundred grants where this was done, Pauma and Santa Ynez, and in the latter case the terms of settlement were so uncertain that action is now pending in the State courts in regard to it. The new owners of the Spanish grants had to rely upon the Spanish law to substantiate the validity of their titles, but were prompt to appeal to the American law to evict the Indians, something they could not legally do under the terms of their grants."

The powers discovering this continent, England, France, Spain and little Portugal, each claiming sovereignty of the soil by right of priority of discovery, all recognized the Indians' right of occupancy as a right.

Dr. Walker, in his American Law, on this subject, "They have a qualified right of occupancy which can only be extinguished by treaty, and upon fair compensation; until which they are entitled to be protected in their possession." In fact, in one of the earliest records of the Supreme Court of the United States, in the case of the removal of the Cherokees from Georgia, we find the following sentence: "The Indians are acknowledged to have unquestionable rights to the land which they occupy until such rights shall be extinguished by voluntary cession to the Government." Under Spanish and Mexican laws as well, those that controlled prior to the cession of the territory of Mexico to the United States, the Indians' right of occupancy was explicitly recognized.

In this connection it is worthy of especial note, that in 1851-52 a duly authorized United States commission secured the signatures of about 400 California Indian chiefs and heads of bands to treaties. These chiefs represented approximately 150 bands or tribes. There were 18 of these treaties, all similar in tenor. The terms of the treaties were substantially as follows:

The Indians agreed (a) to cede their rights in lands to the United States Government; (b) to keep the peace; (c) to accept the sovereignty of the United States; (d) to accept the ceding reservations, 18 in number, aggregating about 7,500,000 acres, described in said treaties by metes and bounds, worth at the Government price of \$1.25 per acre, about \$9,500,000.

The Government agreed (a) to pay the Indians certain sums in goods amounting to about \$1,800,000; (b) to reserve in perpetuity for the Indians' use and enjoyment different reservations specified in said treaties; (c) to provide school and other necessary buildings; (d) to provide skilled instructors in farming, blacksmithing, and woodwork, supervisors and such assistants as should be found necessary. Said instruction to be continued as long as might be found necessary by the President.

The Senate of the United States failed to ratify these treaties, and the Government, therefore, quite properly, considered them inoperative. But why did the Senate fail to ratify? Because certain influential gold miners, whose mining claims might be affected, used their influence against it. Yet it should not fail to be noted that while the Senate failed to ratify these treaties, the agents of the Government in California, by their official acts, practically assumed that they were ratified and allowed the land of the Indians to be settled upon and the Indians to be evicted as though they had no rights whatever. The consequence was that the Indians lost their lands and received absolutely nothing in return but abuse, persecution, and bodily injury when they sought redress.

The failure of the United States to ratify the 18 treaties negotiated by the said commission in 1851-52, or to have settled with the Indians in some other suitable way for their rights in lands and their native opportunities, together with the facts that the Federal statute prohibiting the Indians the right to homestead until the passage of the Indian allotment act in 1887, have placed insurmountable difficulties in their way of progress, of development and of becoming the useful citizens they might have been. The United States again by its superficiality in dealing with these Indians at the time of the awakening caused by Helen Hunt Jackson's "Century of Dishonor" and "Ramona," and by the eviction of the Indians from Warner's Ranch in San Diego County, has made more chronic the almost hopelessness and despair of the Indians and their friends for a just settlement.

It is fully recognized, however, that Congress was filled with the most laudable endeavor to provide homes for the Indians, by their action in authorizing a special agent to investigate conditions in California in 1905 and the following year, making an appropriation for that purpose of \$100,000. Yet, through the incompetency and carelessness of its duly appointed agents, special and otherwise, the intent of Congress, in a large measure, has been defeated and the evil condition of many of the Indians really aggravated and increased by what was designed to be for their permanent benefit.

According to the official records in the premises after the special Government agent, who with full knowledge of the provisions of the treaty of Guadalupe Hidalgo, the 18 treaties negotiated by the Senate's commission in 1851-52, the treatise on the matter by Helen Hunt Jackson and others intimately familiar with the Indian situation of California, recommended, after investigation of conditions among these Indians throughout the State, that \$60,000 would be ample to settle justly with them. In pursuance thereto, strange as it may appear, Congress on June 21, 1906 (34 Stat., 325), appropriated \$100,000 for the purchase of land for the homeless Indians in California. On April 30, 1908 (35 Stat., 70), Congress appropriated an additional \$50,000. It was at that time so clearly and definitely understood by Congress and its committees that this amount would be sufficient to complete the work, that the phraseology employed by Congress in this act was to the effect that it was enough, and that that sum should be so expended as to make unnecessary any further provision.

In the five subsequent annual Indian appropriation bills the language employed by Congress was changed in the item providing "for the support and civilization of Indians in California, including payment of employees." It provided, in substance, that a portion of the respective sums appropriated might be used to purchase additional lands for homeless Indians in California. The tabulation of the respective amounts given were as follows:

Mar. 3, 1909 (35 Stat., 787)	\$20,000
Apr. 4, 1910 (36 Stat., 273)	42,000
Mar. 3, 1911 (36 Stat., 1062)	57,000
Aug. 24, 1912 (37 Stat., 523)	57,000
June 30, 1913 (38 Stat., 77)	57,000
Total	233,000

Out of this total sum of \$233,000, \$30,000 was expended for the purchase of land for the California Indians, according to Commissioner Meritt's statement to the Senate Committee on Indian Affairs. Since the dates noted above, appropriations were made during the next five subsequent years (as shown by the figures in the following tabulation) amounting to \$70,000. The grand total \$250,000, appropriated by Congress for homeless Indians in California, as indicated by the preceding statements and shown by the following tabulation, does not include the \$20,000 appropriated in June, 1919, for this same purpose:

June 21, 1906 (34 Stat., 325)-----	\$100,000
pr. 30, 1906 (35 Stat., 70)-----	50,000
see preceding paragraph-----	30,000
Aug. 1, 1914 (36 Stat., 582)-----	10,000
Mar. 4, 1915 (Joint resolution (38 Stat., 1288)-----	10,000
May 18, 1916 (39 Stat., 123)-----	10,000
Mar. 2, 1917 (39 Stat., 123)-----	20,000
May 25, 1918 (Pub. 159)-----	20,000
Total-----	250,000

In this connection, it is worth while to note that according to Commissioner Leritt's statement to the Senate Committee on Indian Affairs, February 14, 1919, Senate hearings, p. 106), it has taken \$250,000 to buy 8,380 acres of land for 662 Indians and that more than 12 years have been consumed for the transaction. It is shown (by House hearings, p. 36, Dec. 5, 1919), that the average amount actually paid per acre for land was \$11.74, and that the per capita was \$15.10. At this rate the total land value involved is \$98,381.20. This leaves \$151,618.80 to be accounted for in overhead expenses, etc. It also means that only 36 per cent of the total appropriations proved to be of actual service to the Indians. The benefit derived by the Indians is ridiculously small. We should not lose sight of the fact that the land already purchased is in most cases inadequate in quantity and in numerous cases valueless; some being on the sagebrush plains without water or the hope of water. "Six hundred allotments are located in the Sierra Nevada Mountains, where the land, or rather rocks, incline up at an angle of 45 degrees or more, and the snow falls often from 30 to 40 feet deep, and lies from October to June," said the special land agent, in his report to the Department of the Interior in 1906. Still other allotments are found in inaccessible places and comprise land that no United States Congressman, not even the Government agent who made the purchase, would be willing to pay taxes on if the property were assessed for \$1 per acre. Other portions of the land purchased, though insufficient in amount, are of but little value to the Indians, due to lack of water, school facilities, and inaccessibility.

As an example of this we refer to one of many cases coming directly under the notice of the Indian Board of Cooperation, that of the Rancheria at Hoplands, bought by special agent in 1907. There were 630 acres, with absolutely no water, the nearest spring being about 2 miles away. The Indians were compelled to reside elsewhere during the summer months until recently, when, through the efforts of the Indian Board, the Office of Indian Affairs arranged for the expenditure of about \$1,000 for the purpose of securing water. That the land is worthless in many instances is evidenced by the fact, already shown, that only \$11.74 as an average has been paid per acre. However, in each of the Indian appropriation bills providing for the purchase of land for the homeless Indians in California it expressly provides, "including improvements thereon." The improvements seldom reached the Indians and then only after much effort on the part of the Indians and their friends.

The special agent employed by the Office of Indian Affairs for eight years or more for the purchase of land in California for homeless Indians repeatedly claimed during the last year of his service that land had been bought by him or all of the Indians in California and that there were "only a few deals left to be closed," and that he would no longer be in the service, as it was possible for some regular employee, charged with other responsibilities, "to close these deals."

It was also authoritatively stated to Congress (February, 1914, House hearings, p. 144), that there were 1,568 Indians without land, and that the appropriation still needed was \$50,000. On this presentation an appropriation of \$0,000 was made, leaving, according to that estimate, a balance of \$40,000 needed.

This same year a member of the Board of Indian Commissioners stated that, in his opinion, after a recent cursory investigation, \$30,000 would be an ample appropriation for the completion of the land settlement of these Indians.

In the House hearings under date of December 5 and 6, 1916, page 136, the following appears: "It is believed that with great care it will be possible to complete this work with the amount asked for, \$25,000." However, there were then, as recorded in the same paragraph, 2,782 Indians to be provided for, while the following paragraph the same authority claims that there were between 3,000 and 4,000 without land. The number of homeless Indians seems to have been established to be 4,000, as shown by more recent records.

Since these latter estimates as to the necessary funds required for a just settlement, Congress has appropriated:

Mar. 4, 1915, joint resolution (38 Stat., 1288)-----	\$10,000
May 18, 1916 (39 Stat., 123)-----	10,000
Mar. 2, 1917 (39 Stat., 269-86)-----	20,000
May 25, 1918 (Pub. 159)-----	20,000
Total-----	60,000

In spite of the fact that, since the hearings on the Indian appropriation bill for the year ending June 30, 1916, \$60,000 (not including the \$20,000 given by Congress in June, 1919) has been made available, the Senate hearings recorded February, 1919, that the Office of Indian Affairs still has about 4,000 Indians yet to be provided with land. Now, then, since it has taken more than 12 years to provide land for 4,662 Indians and has cost \$250,000, how much time and how much money will be required to provide for the remaining 4,000 under the same incompetent management?

With such numerous discrepancies in evidence and with such flagrant wrongs having been perpetrated against the Indians of this State, and with information so inadequate that Congress can not act intelligently and justly, is it not a matter of simple justice to the Indians and of economic importance to the Government that a Federal commission be appointed to investigate the situation and to supervise all Federal undertakings in their behalf? The needs and justifications for the Federal commission are manifold and self-evident, as we may readily conclude, not alone from the land situation but from the educational and other phases of the California Indian problems that are yet to be presented in this letter under separate headings. The American Government is too rich and self-respecting to allow a stain of this character to remain on its escutcheon.

II. APPROPRIATIONS.

The appropriations required for work among the Indians of this State, as set forth in this communication, are six in number and are numerated in succession under this heading.

1. *Expense of Federal commission.*—As the item concerning the expense of the Federal commission has already been sufficiently gone into, we need not concern ourselves further with it.

2. *Purchase of land.*—Even though this land item has been dealt with at considerable length under the head of "A Federal commission of investigation and supervision," it is worthy of further and very definite attention. An adequate appropriation for land is of great importance to the homeless Indians and of economic consequence to the Government, as land values are continuously increasing in California at an enormously rapid rate. It has been recognized by your department and is well known to all familiar with the expenditure of small appropriations for large purposes, that there is, at best, much waste and great perplexity in the wise and economical use of such appropriations. In this connection we call your attention to page 143 of the House hearings to the analysis of the expenditures for land for the year ending June 30, 1914, which shows that the cost of utilizing \$1,125 for land of a small appropriation totaled \$1,297.90 for the expense of the agent to make the purchase.

According to the best records available, to expend the total appropriations of Congress of \$250,000 for land during the last 12 years, it has cost, for overhead expenses, etc., as previously shown, 64 per cent of the total appropriation. In the hearings referred to, the economic breach was acknowledged to be on account of the smallness of the appropriation which caused perplexity as to its wise expenditure. We are confident that with adequate appropriations for land and an efficient agent in the field, giving his whole attention uninterruptedly to the work of purchasing land, supervised by a competent commission, the maximum results could be obtained with the minimum of cost. The peculiar needs of the Indians make imperative that in selecting land for them there be sufficient wood, that there be arable, as well as pasture land and plenty of water. Since it has taken, according to the Indian Department's own records, as previously shown, \$250,000 to buy land for 4,662 Indians it will require at least \$214,500 to provide land for the remaining 4,000 homeless Indians in a manner similar to the way their kinsmen have been dealt with. The showing, with reference to those who have been furnished with land, is that it is inadequate and in many instances not suitable. This makes evident that a greater appropriation than

\$214,500 will be required for anything like a just and reasonable settlement with the California Indians for their rights in land alone. We, therefore, urge that the appropriations for land be suitably large.

3. *School buildings and equipment.*—The day has gone by, if there ever was one, when it was wise to herd Indians away on to a reservation and subject them to the demoralizing and stunning influences of such a life. The education of the Indian child apart from and in a different way from all other children is not in the best interest of his development and progress.

The need and justification of a Federal appropriation for the erection and equipment of school buildings for the education of Indian children under the public-school system of California, do not seem to have been recognized by the Office of Indian Affairs, judging from its opposition to the amendment pertaining thereto in the Indian appropriation bill for the year ending June 30, 1920 (p. 207, Senate hearings). Because of that fact and because the item is an important one and can not be handled jointly, as proposed by Assistant Commissioner E. B. Meritt, by the State and Federal Governments, it is necessary for us to deal specifically with it.

The Indian population in California is stationary, about 20,000 in all, distributed throughout 45 counties, in approximately 300 bands or groups. Twenty to twenty-five per cent of them of school age, between 4,000 and 5,000. There are no reliable statistics available as to the exact number of Indian children in school, but according to the best available information, there are at least 2,500 not in school, chiefly from lack of adequate facilities, race prejudice, indifference, etc.

The school laws of California would seem to indicate to the casual reader, without a knowledge of their workableness, that in these laws we had a panacea for all our Indian educational difficulties, but they merely make clear that there are three approaches to the solution of this school question.

Where Indians are not already enrolled in the public school and live near enough to attend, arrangements may be made with the local school authorities for their education: (1) By admitting them to the school with the whites; (2) if necessary, on account of local conditions, a "separate school" may be established for them; (3) when it occurs that there are 15 or more children living at a greater distance than 2 miles from any other school, a "new school district" may be formed.

To each newly formed district the State of California and the county in which the district is located will jointly pay \$900 for the maintenance of the school for the first year. The State and county will thereafter pay \$800 annually on "teachers' basis" and from \$15 to \$30 additional per capita, this latter item being based on the average daily attendance of the preceding year. There is, therefore, available from the State and county sources from \$900 to \$1,100 annually for each public-school district, and from \$15 to \$30 toward the education of each child who shall have attended that school the preceding year. There is also from \$15 to \$30 available toward the education of each child who shall have attended a public school with the "whites" or in a "separate school." To provide adequately for the admission of Indian children who have not previously been admitted to established schools this latter sum usually proves insufficient and in no case is available for the first year's expense.

Whenever it becomes necessary to organize a "new school district" it is also necessary to provide a new school building. Under the laws of California, the only way of providing a new school building is by the levy of a special tax within the district by the residents thereof. Where new districts are formed for Indians it is usually necessary, in order to avoid serious objections from their white neighbors, who do not wish to be taxed for them, to have these districts comprise only land recently allotted by the Federal Government to the Indians, which is exempt from taxation and often without taxable value.

With reference to the proposition that the State and Federal Governments share jointly in the expense of school buildings, as suggested by Commissioner Meritt to the Senate Committee on Indian Affairs, February 14, 1919 (Senate hearings, p. 207), it should be remembered that there are serious legal difficulties in the way of such joint transactions. The State authorities could not permit the use of funds for the erection of a building that was not on its own property and under its own control, neither would Federal officials consent to the use of Federal funds for this purpose, unless the building was on its property and under its jurisdiction. The justifications in the premises are wholly in favor of the appropriation by the Federal Government for the erection and equipment of the needed buildings. Firstly, the Federal Government

is chiefly responsible for the pauperous condition of the Indians, because of its failure to effect a just settlement with them; secondly, the recently allotted land is the logical site for these buildings; thirdly, it is held to be unconstitutional for the State legislature to make an appropriation for school buildings for Indian use, as it would be considered "class" legislation. The State authorities have and are willing to cooperate, to the extent of their ability, where children may be admitted to established schools or where schools may be organized, buildings equipped and provided, and permission allowed for maintaining a public school for Indians on Government land. Funds will be made available to the amount of \$800 on teachers' basis for a new school district, and from \$15 to \$30 per pupil per year based on the average daily attendance of the preceding year, toward the maintenance of a school under California laws. These funds will, proportionately to the attendance, and almost automatically, be released from the State and county treasury each succeeding year.

Both the educational administration of the State and the Indian board of cooperation are strongly in favor of providing for the Indian children, so far as possible, in the districts already established, but are also anxious to solve the Indian educational problem of the State as rapidly as it can be done. To do this some additional school districts must be established for Indians now, but it is our expectation, as California becomes more settled, for these districts finally to become mixed, by later changing boundary lines, to take in the new white neighbors and Indians, thus keeping to the ideal of the assimilation of the races.

Through the efforts of the Indian board of cooperation several new school districts have been formed; in each case, because of local conditions, the boundary lines have taken in only land recently allotted to the Indians by your land office, which is of course nontaxable. It is in providing school buildings and equipment for newly organized districts and for other districts that should be formed, for additional facilities in communities where Indians reside near established schools, but who are debarred on account of lack of adequate equipment, that an appropriation is needed. The approximate amount needed to erect and fully furnish a school building is about \$2,000. There are at least 10 or 12 buildings required now. It is therefore just and reasonable that Congress make an adequate appropriation for the erection and equipment for the buildings that are needed.

4. *Tuition*.—It is frequently found that Indians, living near a school already established, are not admitted, because of lack of proper equipment, of race prejudice, or because of indifference on the part of teacher, school authorities, and the Indians themselves. When a tuition toward the education of Indian children in the public school is paid, provision for the Indians is made and race prejudice usually vanishes. It is noticeable that the teacher and the trustees become interested in the education of the Indian children and make them welcome and in every way encourage their regular attendance, because funds are thereby made available for better school privileges for their own children as well as for those of the Indians. More money is available for teachers' salary and general expenses of the school, for only as the children actually attend are these funds available because they are paid on the actual average attendance of the Indian children. This tuition is highly important and justifiable, because of the benefits derived therefrom, by the Indians and because the educational privileges of the public school could not be accorded to the Indians unless they are provided by the levy of a special tax within the district. The whites object to being taxed for the Indians since the Indians' property is not taxable, it being the property of the Federal Government, and in many instances does not possess taxable value. The Indians are not, therefore, in a position to share the educational burden. It is frequently found necessary and advisable for a tuition to be paid to the school trustees for the education of Indian children, attending, with the whites, a "separate school" or a newly formed district. In some instances an unusually large tuition the first year will enable a district to maintain an average attendance that will entitle it to additional funds, on teachers basis as well as to extra funds, because of the actual attendance of the preceding year, thus making it therefore unnecessary thereafter to pay more than nominal tuition to provide amply for their education.

By the erection of school buildings and by the payment of a tuition where necessities require it, the Federal schools for Indians in California may in a few years be abandoned; in fact they will be abandoned if the declared policy of the Department of the Interior is actually adhered to, which is to provide

dian children with school facilities and supervision. According to the report the Commissioner of Indian Affairs for the year ending June 30, 1918, page , it costs from \$200 to \$225 per pupil to educate an Indian in a Government school, while a per capita cost of the education of a child in the elementary schools of this State for 1917-18, including all expenses for salaries of teachers, nitor, fuel, repairs, equipment, books, charts, etc., was \$30. If we were to lude in this the salaries of the State and county superintendents of schools, air office expense, the investment of property with interest thereon, the r capita cost would then be below \$40 per year. From these figures it is clear at the cost of educating an Indian child in the normal way in a public school is least 80 per cent less than under the present prevalling Federal régime. By the licy outlined for the education of the Indian children under the public school stem of California, assisted by the Federal Government, the State school will idly supplant the day and boarding schools of the Government and the ational Government will ultimately and eventually release itself from the sponsibility and support of all of its schools for Indians in California. Besides, it will cost the Federal Government during the period of readjustment for l expenses involved from 50 to 80 per cent less than it now costs.

5. *Indigent Indians*.—It is urgently important that provision be made to aid untly supervisors in providing properly for the sick, aged, and temporarily digent Indians. The conditions that have prevailed among them heretofore ve been and are disgraceful and reflect disparagingly upon a Nation that ppropriates at will \$100,000,000 for the relief of foreign nations.

By the policies pursued heretofore the Indians of California have not only en swindled out of their rights in land, but they have been criminally kept pendent and illiterate, and allowed to die without medical aid literally by e thousands from entirely curable diseases. Out of the 210,000 California dians of 70 years ago, there are left but a miserable remnant of 20,000. The 0,000 estimate is an extremely conservative one, compared with that of ephen Powers, one of California's most reliable ethnologists, who claimed that ere were over 700,000 Indians in this State at the time of the coming of the hite man to California. Let us for the sake of our case allow that there were ly 210,000, and that to-day there are 20,000 Indians. Confronted by these ets, we must acknowledge astounding as it may appear, that at least 190,000 dians, without regard to their birth rate, have died in California during so ef a period. This terrible and swift decrease of the Indian population is diisputably chargeable to three causes principally—eviction, starvation, and ense.

Dr. Judson Liftchlld, of Mendocino County, Calif., who has been a practicing hysician for 22 years, in an address at the conference of the Indian Board of ooperation, held in San Francisco, August, 1915, said:

"I have lived for nine years as Government physician on a large reservation, nd for several years as superintendent of the county and hospital and alms- ouse, and county health officer, having studied this question, am not giving pinions second-hand. With the exception of a few counties, the indigent, sick, r aged Indian receives practically no aid in this State outside of reservations, e being a shuttlecock between State and national authority, each claiming at the responsibility rests on the other. In the county in which I reside, there re no Indians in the almshouse or county hospital, although there are many istances of pitiable poverty among the aged, and cases of curable diseases which o untreated. Children die of tubular spines and hips, and many become ind from trachoma and conjunctivitis. The aged, many of them blind, eke ut a miserable existence, half clad and half starved, dependent upon the pre- rious help of their own poverty stricken race, or the intermittent assistance f charitable white people."

Dr. Liftchlld further states with reference to Mendocino, Sonoma, Lake, and djacont counties, that "There is no Government physician outside the Round alley Reservation, and he makes no visits outside of that reservation."

Commissioner Cato Sells, of the Office of Indian Affairs, in his report (1914, p. 13-14) concerning the seriousness of tuberculosis and trachoma, said in part: "This is a scourge of the Indian race, and with a full appreciation of the eriousness of the conditions presented, an earnest effort is being made to suc- cessfully combat the disease. The progress of the work has been hampered, eretofore, mainly by insufficient funds. I am fully aware of the fact that to erpetuate the Indian race, the inroads of tuberculosis must be stayed. To do his, it is essential that better sanitary conditions be instituted in the homes

of the Indians, and that cleanliness, better ventilation, and sufficient and nourishing food not only be insisted upon but provided, if necessary. On account of the failure to recognize trachoma, the lack of facilities for handling the disease, and the small amounts of money formerly appropriated, the disease has wrought great havoc among the Indians of every tribe, except those of New York. Trachoma is only second to the tuberculosis scourge, and spreads rapidly when it is once introduced. The increase of trachoma is alarming."

According to the United States statistics for California for the year ending June 30, 1913 (p. 142 of report of Commissioner of Indian Affairs) there were 2,962 Indians examined, and 562, or 19 per cent of that number, were found to have tuberculosis or trachoma, while in the commissioner's report of 1917, page 133, 3,890 Indians were examined, of which 2,174, or 55 per cent, were rated as having tuberculosis or trachoma. With this percentage suffering from these two contagious diseases alone, it is evident that there is a larger percentage, ever increasing, who need medical aid.

The official records of the Office of Indian Affairs show that large sums are paid for hospitals, for physicians, salaries, etc. It should be noted, however, that the majority of the Indians of this State, about three-fourths, do not live on reservations, and that the work done to stay the tide of disease is done for reservation Indians and that those living in scattered bands throughout 45 counties, are usually left to die without any care whatsoever. The Indians are not able to pay hospital and doctor fees, which, in the case of a doctor when he is called to an Indian home, ranges from \$5 to \$25 or more per trip, according to the remoteness and inaccessibility of the case. On the other hand, as to the Government provision in a case of emergency, "the inadequacy of such service is plain," to quote the report of the commissioner, 1912 (p. 20), "when a physician frequently has to drive a day or more out and a day or more back, to reach one family."

In this, as in the school question, we believe that the Indians should be provided for under State supervision. This can be done by Congress appropriating an adequate fund with which to provide additional room and equipment in county hospitals, where necessary, and by reimbursing the supervisors to the amount of 50 per cent of the sum paid by the State and county, for Indians receiving care and sustenance.

This method accords with that of the Federal Government in cooperating with the public school authorities in the education of Indian children, by the payment of a tuition, and with the policy employed by the State of California in providing aid for orphans and half-orphans under the widow's pension act.

The cost of care of the indigent, sick, and aged in a county institution for all services required, was \$275 per capita per annum for the year ending June 30, 1919. Our experience and knowledge warrant the assertion that if the supervisors had the room and equipment required and knew that their efforts would be supplemented, that they would be reimbursed in part, they would be willing to cooperate heartily in this work in accordance with the method involved in the policies referred to. By this system the Indians could receive medical aid, who would otherwise go unaided, to spread infectious and contagious diseases not only among themselves but throughout the community at large.

The national fund could be safeguarded by a contract (similar to the tuition contract) by requiring the supervisors to render the service and then to be reimbursed, upon a proper showing of services rendered, and by requiring them to bear 50 per cent of the expense. The Federal fund would be further safeguarded under the present State law requirement, by which the supervisors must pass on all worthy cases and must meet monthly to consider all matters pertaining to the county.

6. *Reimbursable fund.*—There are many instances in California where Indians have been furnished with land but are not able to make use of it because they have not the farming implements and other necessities essential to make the best use of their land and to provide the ordinary house furnishings.

Indians not on a reservation have frequently been denied assistance from existing reimbursable fund, because they were nonreservation Indians. We would, therefore, urge that this matter be given suitable consideration and that the Indian appropriation bill be made to provide adequately for them.

III. AGENT TO ASSIST INDIANS.

The Indians as a rule have not the knowledge of our laws, nor our methods of securing aid for their sick and otherwise needy, nor the initiative, in many instances to make the necessary and proper application for the aid and privileges

that they are entitled to. It would, therefore, be highly in the interest of humanitarian assistance and justly important to the Government in developing Indian citizenship and independence, to place a Federal agent in the field who is thoroughly familiar with California problems and the laws that are applicable to the care and education of Indians. He should be charged with the task of making a thorough study of Indian conditions throughout the State, county by county, conferring, at all times, with the county and State executives specifically concerned, who shall also use every available means to provide the Indians with school privileges and the necessary care for their indigent sick and aged, under close supervision, assisted by Federal funds.

. CONSISTENCY IN GOVERNMENTAL POLITICS AND INTELLIGENT COOPERATION OF THE COUNTY, STATE, AND FEDERAL OFFICIALS.

Much confusion has arisen on account of the failure of the Government representatives to deal consistently and in accordance with the declared governmental policies and intelligently cooperate with the State officials. For instance, it is understood that it is the policy of the Office of Indian Affairs to cooperate cordially with the county and State officials. In some counties agents deal with the trustees of school districts, the only legal authorized persons with whom to enter into contract and transact school matters pertaining to their district, while other agents are knowingly allowed to persistently and contemptuously disregard the law which makes illegal a contract with county superintendents of schools and which gives special detailed authorization to trustees.

The white people who live near Indian communities often labor under the misapprehension that the Indians are wards of the Federal Government and that it is, therefore, the duty of that Government to educate them. For instance, two schools have been erected and equipped recently by Federal authorities in Mendocino County, Calif., one at Pinoleville, at a cost of \$3,500. Here a teacher's house has also been erected at a cost of \$1,800. At Carroll, nearby, a school-house has been constructed, costing \$1,200. At each of these points the Government maintains an independent school, and there seems to be absolutely no justification for this unreasonable independence, so out of accord with the proposed policy of the Office of Indian Affairs. In the best interest of the Indians, public-school facilities could be arranged under which conditions the State would bear a liberal share of the expense of the school maintenance now, and its entire responsibility ultimately.

The confusions and misunderstandings that arise concerning the legal status of the Indians, the source from which they should receive educational and other advantages, should be eliminated by more definite and authoritative understanding and cooperation with the State and county officials concerning their betterment. As to this confusion and the ill it works, we cite you a recent specific instance at Manchester, Mendocino County, Calif. Here, when influenza was raging, the Indians asked the county supervisor for medicine and food for the sick. He claimed that the Indians, being wards of the Federal Government, could have to obtain aid from that source. However, he kindly phoned to the Government agent at Round Valley, who responded to the call. This trip to interview the Indians and to ascertain their needs, could only be made by a round trip of four full days and three nights, involving 160 miles by stage, 14 miles by ferry, and 56 miles by rail. With expenses of \$37 and allowing four days' salary at \$3 per diem (the rate given in 1913) the cost would come to about \$50. Please note that this expenditure of time and money was only for an interview, and that the superintendent, arriving after five Indians had died, as he was either a practicing physician nor an undertaker, could do practically nothing. He had not even the authority to pay the funeral expenses or doctor's bills, and kept saying he would see what he could get the Government to do, especially in regard to the funeral expenses of the father and mother of two minor orphans left to the care of Indian friends.

The lack of cooperation is further evidenced by the fact that on two occasions large numbers of Indians have been examined by the medical representatives of your department, who found, on one occasion, 19 per cent. and at a later date 55 per cent of the Indians examined to have tuberculosis and trachoma. The State law provides that all contagious and infectious cases shall be reported to the State board of health. The records concerning the case referred to are to the effect that the State officials were not advised at all concerning the matter.

Another case that bears materially upon this point is that arising out of an accident that occurred in one of the counties, when some Indians under the influence of liquor (that had been obtained in dry territory) shot off the chin of one of their number. The authorities, upon notification of the tragedy, immediately arrested the person supposedly guilty and took him to the county jail to await trial at the expense of the county, while his father, the injured person and aged man, was left alone in his cabin to bleed to death and die unaided. The same authorities claimed that he was a ward of the Federal Government and that it was, therefore, the duty of that Government to care for him.

The Indian Board of Cooperation has been able, in a large measure, to have settled the legal status of the Indians in California, by securing opinions from the attorney general of the State concerning different matters, such as their right to vote, to attend the public school and to receive county and State aid when in indigent circumstances. The most far-reaching result in this respect has been caused by the decision of the Indian Board of Cooperation to put an end to the aimless dispute between State and Federal authorities, for upwards of 70 years, as to whether California Indians are citizens or wards. It initiated a test case in which the Supreme Court of California definitely declared the Indians to be citizens (*Anderson v. Mathews*).

We wish to note in this connection that the Supreme Court of the United States has declared that Indian citizenship and wardship are not incompatible. Our conclusion is that the Federal Government has a responsibility to these Indians, its wards, because of its failure to honorably preserve to them their rights under the treaty of Guadalupe Hidalgo, and to compensate them for their rights in land, in accordance with the 18 treaties of 1851 and 1852 or in some other suitable manner. It is plainly a matter of economic import to the Government to make this year's appropriation for the California Indians sufficiently large to speedily accomplish their relief and compensation.

The hopelessness of the Indians for a settlement may be tersely summed up in the language of an old chief who recently replied to a white friend who inquired after the welfare of his people, "Fifty-two years white man make promise, no keep 'em—hope all gone."

Many of the aged and needy Indians are numbered among those who, as chiefs of their tribe, either signed or witnessed the signing of the 18 treaties which were made in good faith, at least by them, with a commission, duly authorized by the Government of the United States, under the Stars and Stripes, the flag which should have spoken to them of liberty, of equal rights and opportunities, and of fair play to all. Yet not one of the treaties was ever kept, and these Indians, with all their priority of right, suffer and die, homeless and landless, without claim even to the 6 feet of soil in which they are buried.

Recommendations.

First. That Congress be asked to authorize the Secretary of the Interior to appoint a commission to investigate the conditions among the Indians of California and to supervise the expenditure of all appropriations and work that may be undertaken or authorized by Congress, (1) to investigate as to the number of Indians inadequately provided for with land; (2) those who have none at all; (3) as to the needed provision for Indian education in the public schools, with reference to Federal aid, where it may be necessary; (4) as to the aged, sick, and indigent Indians, with regard to what should be done for their relief; to report to Congress the actual conditions and recommend policies to be pursued; and also to estimate the amount that should be appropriated to provide school privileges for the Indian children, and proper aid for the needy. We would also recommend that the said commission be composed of seven members, as follows: A representative of the Office of Indian Affairs, a member of the Board of Indian Commissioners, and five representative California citizens, who shall serve without pay, and that said commission be authorized and instructed to remain active and responsible until such task as may be assigned to it shall be accomplished.

Second. That adequate items be placed in the Indian appropriation bill for the year ending June 30, 1921, (1) for the expense of a Federal commission to investigate and supervise California Indian matters; (2) for the purchase of additional land for those inadequately provided for and for those who are still homeless and for improvements that may be necessary; (3) for the erection and equipment of school buildings where they may be found essential, and also

additional equipment in established school districts, that may be necessary; (5) the education of Indian children in the public schools of California; (6) a tuition to be paid to the trustees of school districts in California where Indian children may be given educational advantages, which could not otherwise be amply provided, due to the fact that the Indians' lands are not taxable and that they, therefore, do not contribute to the expense of such privileges; (7) for the purpose of reimbursing county supervisors to the amount of 50 per cent of the amount they may actually have paid for the relief of sick and indigent Indians, when such supervisors shall be under contract with the Department of the Interior; (8) for a reimbursable fund to aid nonreservation Indians providing themselves with the ordinary house furnishings, horses, and implements, for the purpose of making the best use of their land.

Third. The appointment of a Federal agent, thoroughly familiar with California problems and the laws that are applicable, with reference to the care and education of Indians, who shall be charged with the task of helping Indians to secure the privileges that are now withheld from them because of the lack of proper application for such rights. The agent should also be instructed to consult at all times with the State and county officials especially concerned and to use every available means to secure to the Indians their rights and privileges. We would also recommend that, (1) arrangements be made, so far as possible, with the authorities of each county, where necessary, for such additional room and equipment, in the county institutions, that may be needed to care for the sick and aged Indians; (2) that the Federal Government render such assistance and aid as may be justifiable; (3) that each county be encouraged to provide and maintain one or more free dispensaries, assisted financially by the Federal Government; (4) that there be appointed in each county where the number of Indians warrant it, a field matron, who shall be registered nurse and otherwise generally qualified to do social service work, such services to be compensated by the Federal Government.

Fourth. That the commission and all agents of the Department of the Interior be instructed to consult and keep in close touch with the State and county officials concerned with the community welfare; that your department or the office of Indian Affairs arrange a conference with the State board of education, the State board of public health, and the State board of charities and corrections and such other organizations as may be constructively laboring for Indian betterment.

We, therefore, ask you, honorable Secretary, both as a Californian, and also as one interested in the cause of humanity, to urge adequate appropriations this year, and to lend your valued assistance in each of the matters we have outlined before you.

Yours, in the cause of justice and humanity,

Will C. Wood, Sacramento, Calif., State superintendent public instruction; F. G. Collett, San Francisco, Calif., executive representative Indian board of cooperation; George Wharton James, Pasadena, Calif., celebrated explorer and author, authority on Indians of Southwest; J. W. Henderson, San Francisco, Calif., attorney at law; A. C. Jensen, San Francisco, Calif., State board of charities and corrections; Guy P. Jones, Sacramento, Calif., assistant secretary State board of health; Elizabeth F. Arnold, Riverside, Calif., State chairman Indian welfare committee federation women's clubs; Dorcas J. Spencer, Alameda, Calif., 20 years national superintendent Indian work, W. C. T. U.; Dana W. Bartlett, Los Angeles, Calif., members of California Housing Commission; A. L. Kroeber, Berkeley, Calif., anthropological department, University of California; J. C. Pinkerton, Los Angeles, Calif.; State executive Federation of Churches for California; George F. Kennigott, Los Angeles, Calif., superintendent congressional conferences of southern California; J. E. Pemberton, San Francisco, Calif., attorney at law; C. R. Fisher, San Francisco, Calif., State secretary of Sunday school association; Francis J. Van Horn, Oakland, Calif., minister Congregational Church; Raymond C. Brooks, Berkeley, Calif., minister Congregational Church; Beryl B. Collett, Palo Alto, Calif., field secretary Indian Board of Cooperation; E. K. Taylor, Alameda, Calif., attorney at law, special committee Indian Board of Cooperation.

We, the undersigned, are deeply interested in the foregoing statement by the special committee of the Indian Board for Cooperation and would urge that a thorough investigation be made of the situation set forth therein; that suitable remedial legislation be enacted and adequate appropriations provided.

Ray Lyman Wilbur, president Stanford University; David Starr Jordan, president emeritus Stanford University; David P. Barrows, president University of California; Aurelia Henry Reinhardt, president Mills College; George F. Bovard, president University of Southern California; James A. Blaisdell, president Pomona College; Silas Evans, president Occidental College; Tully C. Knoles, president College of Pacific; Ralph P. Merritt, comptroller, secretary of the board of regents and land agent, University of California.

The CHAIRMAN. Now before we decide concerning that report, since Mr. McDowell is here, perhaps we had better hear him a few minutes with regard to the report and get your personal idea, which undoubtedly would be the idea of the commission, with regard to what ought to be done in this case.

STATEMENT OF MR. MALCOLM McDOWELL, REPRESENTING THE BOARD OF INDIAN COMMISSIONERS.

Mr. McDOWELL. This report was made really for the Senate committee and at the time there was no thought of ever using it in connection with the jurisdictional bill. I did not know that it was going to be brought up here at all, but in making the report, I went back into the record and went back into the history of the situation. Judge Raker and Mr. Meritt have told you all about that. They did not bring out this fact, though, which I think might have a little bearing—I will show you the map in a minute and you can see very clearly how the matter stands.

Mr. Royce, for the Bureau of Ethnology, went very closely into the history of all cessions made by the Indians to the United States Government. It is a wonderful book and if you do not have it, you had better get it and look at it, because it studies every cession of every treaty, of every agreement entered into up to quite recently. It is really a remarkable book. I took that book and had these maps made. They are very crude maps, simply drawn with colored pencil. Those large splotches there [indicating on the map] are the area which were occupied in 1851 by the Indian bands and tribes. The little areas in here [indicating] are the diminished reserves, which the treaties gave to the Indians, and in which the Government said they would hold the land for the benefit of the Indians forever.

Now, in addition to that, as Mr. Meritt and Judge Raker told you, the Government promised to give the Indians a great deal of goods and to maintain schools and furnish them blacksmiths and farmers and teachers. Mind you, this was all Indian land through here [indicating]. Each of these is a group, maybe ten or a dozen or fifteen bands. They all lived in that area. There were more different kinds of Indians in California than there are to-day in any other part of the country. Scientists will tell you that about one-third of all the Indian tribes, all the Indian tongues, are represented in California. This little green patch here [indicating], shows that particular tribe or band of Indians—there might have been a dozen or twenty bands—had used all of that land for years and years, generations and generations. They gave up all that and they reserved this little patch in here in the treaty [indicating].

Mr. RHODES. Pardon me, but about how much land do you estimate that these Indians have been deprived of?

Mr. McDOWELL. Nobody has figured that out.

Mr. RHODES. Don't you think it would be proper to give the committee an idea, not so much for our particular information as for that of the House.

Mr. McDOWELL. It is practically all of California excepting that strip which lies east of the Sierra Nevada Mountains.

Mr. RHODES. I have in mind what our colleague, Mr. Hernandez, said a few days ago, that there will be some very searching questions asked on the floor of the House if we undertake to pass this bill, and the more complete the record is on all these points the better it will be.

The **CHAIRMAN.** He says practically the entire State of California.

Mr. RAKER. But these treaties, when it is finally summed up, amounted to about 7,000,000 acres.

Mr. McDOWELL. This other map shows in detail the patches of land that were reserved for the Indians. The little red spots are what the Indians have to-day.

The **CHAIRMAN.** What are the other spots?

Mr. SINCLAIR. Those represent the cessions, do they not?

Mr. McDOWELL. No; these represent the cessions [indicating]. These little spots here represent the restricted areas which the treaties gave the Indians; the red spots indicate the land as it is to-day.

The **CHAIRMAN.** Referring to map No. 2, what do those colored spots represent?

Mr. McDOWELL. Those colored spots represent the restricted reservations which were described in the 18 unratified treaties and which the United States Government told these Indians, "If you will give up all the rest of the State, we will give you these lands and hold it for you forever."

Mr. RAKER. Which amounted to about 7,500,000 acres?

Mr. McDOWELL. Yes, sir. Now, the Indians have gotten back from the Government Hoopa Valley, Round Valley, Tulule River, these 29 missions down here, and these little spots around here—some of those Government owned rancherias. They are not all shown. You will notice you have got only two in your county on the map, but you have got half a dozen, Judge Raker.

I wish to say that the Piute Reservation over here, 75,000 acres, was turned over to the Indians as a reservation out of the public domain a few years ago. When was that, Mr. Meritt?

Mr. MERITT. By Executive orders of March 11, 1912; May 9, 1912; September 7, 1912; September 16, 1912; February 14, 1913; and July 22, 1915.

Mr. McDOWELL. I have seen three men who have been up there, and they tell me that that land is simply uninhabitable. You can't get water on it; yet that all figures in with the number of acres of land which the Indians have. That is the situation to-day.

You ask how the Indians are living; what they are doing? The Indians of California are what you call laboring men. They go out to work on farms, on ranches, in the mines, and on the railroads. They are good, hard-working men, all of them.

Now, I haven't anything more to say, sir.

The CHAIRMAN. What do you say as to the general condition of those Indians?

Mr. McDOWELL. I think it is miserable. I think the California Indians have been treated outrageously.

The CHAIRMAN. I am not speaking about the treatment; I am trying to find out what the conditions of the Indians is to-day, as to their living facilities and their condition as a people.

Mr. McDOWELL. The Indians outside of the little rancherias which the Government has bought, almost all of the Indians are landless and homeless. They squat on the white man's land. Some of them, of course, build little homes there, and the ranch men permit them to stay on because they thus get labor handy. Some bands have located on ranches for generations; so long that they are called by the name of the ranch man.

The CHAIRMAN. Now, it is claimed that there are about 15,000 of these Indians on the reservations. You say that they are laborers and workmen. Now, what percentage of them, about what percentage of the adult Indians actually work, and about what is the average number of days per annum that they work and about what wages do they get?

Mr. McDOWELL. Practically all of the Indians work. They have to, because they can not live without working. I except, of course, the old and the sick and the feeble. They are taken care of in one way or another by their people, a few by the people in the neighborhood; some by the Government, and some of them in times past have starved. There is no question about that.

You ask how many days they work. They begin to work in the beginning of the spring growing season. They go into the hop fields. they go into the vineyards, they go into the ranches. They work all through during March, April, May, June, July, August, September, October, and November, when they get through with the grapes. Of course, the farther south they go, the greater number of working-days in the year they have. In the wintertime, up north, a few of them go into the woods. Some of them are working 365 days a year on the railroads and in the mines or around the mines. Very few of them go underground. But you might say they work through the growing season.

The CHAIRMAN. Do they get regular wages that white men get?

Mr. McDOWELL. They do not.

The CHAIRMAN. Why do they not, and about what is the per cent of white men's wages?

Mr. McDOWELL. For years and years they have been the cheap labor of California. There are exceptions, of course. I know Indians that are getting \$9 a day, Mr. Chairman, but I don't know exactly how much they are getting as a class. I can say that the average would run, when they are working, about \$3 or \$4 a day during the season. But they have a great fault up there, a serious economic handicap, which is that the storekeepers carry them over the winter, and, of course, they are in debt all of the time to the storekeepers. The storekeepers are not unfair; they do not charge them excessive interest; they do not charge them excessive rates, and the Indians have no complaint to make about that at all, but they are always in debt.

The CHAIRMAN. Now, from the statement and the illustration you have just given us here, I don't see that those Indians up there are any different from the same number of people that would be located anywhere else.

Mr. McDOWELL. They are in one sense of the word. In one sense of the word they are no different from the common ordinary run of aboring white men.

The CHAIRMAN. They are working out their economic conditions under the best circumstances that they can find?

Mr. McDOWELL. That is perfectly true.

The CHAIRMAN. Then so far as their starving to death is concerned, the per cent that is starving perhaps is not any greater than it would be in any other community where the opportunities for work were not any greater than they are there.

Mr. McDOWELL. Possibly.

Mr. RHODES. You mean to say that they are actually starving to death?

Mr. McDOWELL. There have been some cases of that.

Mr. RHODES. I did not know that there was anybody starving to death in this country.

Mr. McDOWELL. There have been cases right up there. Mr. Raker, who just left, told me that he had heard that some of the Indians up there had starved to death. They are the old people that get out away off from everyone else; who live off from the reservations.

Mr. RHODES. Well, the number of people who are starving to death, I assume, is very small.

Mr. McDOWELL. It is very small; yes, sir; and it is the old people.

The CHAIRMAN. There is about the same per cent that there would be in any other community or State where the conditions of living are about equal to what they are out there.

Mr. RHODES. But I did not know that people were starving to death anywhere in the United States.

The CHAIRMAN. There may be a case here and there. Frequently we read in papers about some fellow who took himself off somewhere and wouldn't do anything and finally they found him starved to death.

Mr. RHODES. I observe you say the wages received by Indian labor are not as high as the wages received by white labor. Is that due to the inefficiency of the Indian?

Mr. McDOWELL. Largely so. That is to say—of course it goes without saying that the Indian as yet has not reached the point where he can put in so many hours continuous labor as a white man, but I am comparing them with the Asiatic labor there.

The CHAIRMAN. I would like to ask you one more question. Down to 20 years ago, since 1854, very little was done for these Indians?

Mr. McDOWELL. Hardly anything.

The CHAIRMAN. And they were thrown upon their own resources?

Mr. McDOWELL. Yes, sir.

The CHAIRMAN. Now, comparing them with Indians that have been taken care of by the bureau since 1854, you being familiar with all the Indians, practically, in the country, what would you say the individual condition of the California Indian belonging to these bands is as compared with those that have been taken care of during all these years?

Mr. McDOWELL. I have seen some California Indians up in the Greenville district that are very much superior to any Indians I have seen anywhere else.

The CHAIRMAN. I want to ask you as to your general observation taking Indians generally in that section of the country, the number involved there, and comparing them with a similar situation somewhere else where the Indians have had the care of the bureau and the Government at all times, what is the comparative condition?

Mr. McDOWELL. Well, the Indians in California, of course, as you know, are self-supporting and they have been self-supporting for years, and naturally a man who is supporting himself is brighter and smarter and works harder than the man who is taken care of at times. That goes without saying.

The CHAIRMAN. Then I draw from that answer that it is your understanding that the Indians that have not been cuddled and cared for by the Bureau during all these years are in a better state to take care of themselves than those that have been?

Mr. McDOWELL. I think so.

The CHAIRMAN. I am very glad to get that statement from you, because you are one who is an authority upon Indian affairs.

Mr. McDOWELL. You take a reservation where they have—you understand, of course, that the Indian Bureau does not ration these Indians; it does not give out food and clothing to Indians the way they did in the old days when the Indians were practically prisoners of war. They do not do that any more. The bureau takes care of some old Indians and sick Indians and some helpless Indians who can not work, so they ought to take care of them. That is pure philanthropy. But we will take the Round Valley Indians, for example. Now, there is a good comparison. There is a case right in one agency, the Round Valley Indians in Mendocino County, in northwestern California. In a year or so from now the Government will give them their patents in fee, and they are citizens. I believe; and I think it is next year when it happens. Those Round Valley Indians within that valley have got beautiful farms and they have not worked them very well. They do not stand very well with their neighbors up there. They rent some of the farms themselves. They take life pretty easy. Some of them go out when they have to have a few dollars and work in the vineyards and the hop fields and the prune orchards of that neighborhood. Now, under the Round Valley jurisdiction there are a number of rancherias around Ukiah. Those Indians have had this one thing given them by the Government, which lifts them right out of the dirt, and that was the Government gave those Indians the assurance of permanent occupancy from which they could not be kicked, and that is all the Government did for them. The Indians had to go out and hustle. The Indians had to go out and work. Before the Government did that, before the Indian Bureau did that, those Indians were the scum of the earth. They lied, they stole, they got drunk, they laid around, they were indolent, they could not be depended upon for work, but when the Government and the California people got together and gave that land to the Indians, just so that they could go and build little homes on it, those Indians began to come right up, and to-day you can go down there and find men who have got thousands and hundreds of

thousands of dollars—white men—capital invested in hop fields who will make contracts with Indians to go out and work that hop field for them for the year at so much an acre, and go away and leave them. Now, there is the answer to that. But you take some other Indians—you take now, for instance, the Blackfeet Indians, they could not do that, because they are not naturally farmers. You can't compare all the Indians in the same way at all. It is absolutely impossible.

The CHAIRMAN. I am not asking for a comparison of them; I thought I made my question rather specific.

Mr. McDOWELL. Well, did I answer it?

The CHAIRMAN. I think you have.

I think you have given us a splendid answer to the thing, and just the kind of answer we expected to get from you.

Mr. McDOWELL. Now, you take the Blackfeet Indians, the Crow Indians; they are horse Indians, plains Indians. They can not farm. They will herd cattle, but they can not farm.

The CHAIRMAN. What is the use of spending millions of dollars up there clearing land for the Indians to farm when it has been demonstrated that he can not farm?

Mr. McDOWELL. Well, that may all be true. I don't know anything about why they did it. That happened a great many years ago.

The CHAIRMAN. No; that is being done right now.

Mr. McDOWELL. No; pardon me; you are preparing bills for contracts entered into a great many years ago, and you are carrying out an irrigation project entered into a great many years ago, and you have to complete it because there is said to be a need for it.

Mr. RHODES. What is the necessity for it?

Mr. McDOWELL. You are talking about the irrigation up at the Blackfeet?

The CHAIRMAN. Well, all of those reservations.

Mr. McDOWELL. My personal opinion is there is no necessity for it.

The CHAIRMAN. Then, since it is now 12 o'clock, I think we will declare the hearing closed with this understanding, that when the hearings are printed the committee will be advised after distribution of the hearings and will be called together again to take final action upon the bill.

Mr. MERITT. May I make one statement in regard to these alleged starving Indians? I want to say that there are no Indians in California on Indian reservations and under the jurisdiction of the Indian Bureau that are starving now or have starved in the past.

Mr. McDOWELL. That is right. I have never heard of reservation Indians starving; those reported were non-reservation Indians.

Mr. MERITT. And also that there is every opportunity for the California Indians to obtain employment in California. In southern California there is not any excuse for an Indian being idle, because every Indian can get from three to four dollars a day for every week day in the year if wants to work.

Mr. RHODES. Mr. Chairman, is that report the gentleman refers to to go into the record?

The CHAIRMAN. Yes; if there is no objection the report of the Indian Commission will be printed in the hearing.

Mr. RHODES. I want that in there because we will have a hard enough time getting this hearing through the House, anyway.

The paper referred to follows:

REPORT ON CALIFORNIA NONRESERVATION INDIANS, BY MALCOLM M'DOWELL, MEMBER BOARD OF INDIAN COMMISSIONERS, DECEMBER 31, 1919.

DECEMBER 31, 1919.

DEAR MR. SECRETARY: Concerning the "landless" Indians of California, I have the honor to report as follows:

During the discussion of the California items of the Indian bill for 1920, last February, in the Senate Committee on Indian Affairs, the suggestion was made that the Board of Indian Commissioners and the Commissioner of Indian Affairs detail representatives to make a survey of the conditions and needs of the nonreservation Indians of the State with the purpose of securing certain information touching such Indians for the Senate Committee. Agreeable to that suggestion Commissioner Sells detailed Mr. Oscar M. Lipps, supervisor of education, and Dr. Lawrence Michael, a special supervisor of the Indian Service, and the board sent me, to conduct the requested investigation.

The particular items which were under consideration by the Senate Committee at the time the suggestion referred to was made related to appropriations for the relief and care of nonreservation Indians in California; for the purchase of lands and for the construction of public school buildings for such Indians, and for the expenses of a special commission to be appointed to investigate the conditions of the Indians with a view of determining required appropriations and the adoption of a policy for the administration of their affairs and the betterment of their condition.

Pursuant to my instructions I spent seven weeks, from September 26 to November 16 last, in 14 counties of California, conducting an investigation of the nonreservation Indians. Also, I went to Reno, Nev., to confer with C. L. A. Dorrington, special agent in charge of thousands of nonreservation Indians in Nevada and California, and to see the colony of landless Piutes and Washoes recently established by the Indian Service between Reno and Sparks.

What I saw, heard, and learned in the progress of this survey leads me to venture the following suggestions for congressional and departmental activities in behalf of the nonreservation Indians of California:

1. The adoption of a California Indian policy, with appropriate legislation to make it effective, predicated upon the acknowledgment of a legal debt due the Indians because they were dispossessed of their lands without due process of law and without compensation, and based upon the principle of exact justice and not upon sentiments of pity or charity.

2. This policy to center upon education for the children, permanent home sites for nonreservation Indians and adequate provision for the decent care of the aged, disabled, delinquent, and helpless.

3. The adoption for California Indians, with any necessary modifications to meet local conditions, of the successful colony system established by the Indian Service in Nevada for landless Piutes and Washoes.

4. The cooperation of the State of California to be secured, if possible, in all activities touching these Indians, but if the State and local authorities do not care to acknowledge any obligations in these matters then the Government to proceed alone until such time as public sentiment in the State toward the Indians may change to a more sympathetic state of mind.

Soon after arriving in California I met Mr. Lipps and Dr. Michael at Ukiah, where we spent some time in conference and I was much impressed with the comprehensive program laid out for them in their instructions from Commissioner Sells. They were directed to make a thorough survey and study of the homeless nonreservation California Indians and their needs in every county of the State and were required to secure specific information as follows:

1. The names of all homeless, nonreservation Indians; age, marital condition, family locality, tribe, degree of Indian blood, and number of children of school age in each family.

2. The land situation near each group of Indians; general character of soil, etc., and approximate selling price.

3. The attitude of the whites in the neighborhood of each group of Indians, especially whether Indian children are admitted to white schools, whether effort is made by State or county school authorities to get such children into white schools.

4. The opinion of the special investigators and reasons therefor, as to the wisdom of the Government providing schools in localities where enough Indians are grouped to afford the required average of school attendance and if such schools would be practicable or should the education of such children be undertaken by the State.

5. The general health condition of each group of Indians; how medical attention now is obtained and should the Government undertake to furnish aid and, if so, how and the approximate cost.

6. A numerical summary of the results of the survey giving the number of nonreservation Indians, the degree of Indian blood and the number of children in each county.

Obviously it will require several months for the two special investigators to complete their survey and it is earnestly hoped that they will be given every facility and ample time to finish their important task. It is doubtful if two better men could have been selected to conduct such an investigation. Both have had long and varied experience in the Indian Service; both understand the Indian people and both are sympathetic and close observers. Their reports and conclusions will be authoritative and the information they set forth may be accepted as authentic.

As I had made two rather close surveys of the homeless Indians of western Nevada and northeastern California and the rancheria Indians in Mendocino, Sonoma and Lake Counties, Calif., under the supervision of the Round Valley Agency, I knew there were certain factors, of what might be called the human equation, of the California Indian problem, which ought to be studied to arrive at conclusions and recommendations that could supplement the report of Mr. Lipps and Dr. Michael. Therefore, after consulting with these gentlemen, I selected a number of points in the State where landless Indians live and where it was believed that the several factors I had in mind could best be studied.

There does not now seem to be any justification for a special commission to make a survey of the landless Indians of the State. When Mr. Lipps and Dr. Michael make their reports, with recommendations, the Senate Committee on Indian Affairs will have the findings of the two special investigators, my report and other reports and data in the files of the Indian Office and the board's office which, I think, will give the committee sufficient information, and of a character which will enable it to intelligently and with ample knowledge, take such action as respects these Indians as it may deem best.

Taking everything into consideration there seems no escaping the conclusion that before any more appropriations are made for the purchase of lands for these nonreservation Indians, a comprehensive, sympathetic, and practical California Indian policy should be adopted with legislation to make it effective. And this policy, it seems to me, should not be based upon any sentimental ideas of charity or philanthropy but instead upon the principle of exact justice toward the remnants of tribes which were dispossessed of their homes and lands by the Government of the United States and the citizens of California, contrary to law and the ordinary dictates of humanity, in the middle of the last century.

Even a cursory reading of the reports of hearings of the congressional Indian committees on the California Indians discloses the fact that the predominating sentiment back of appropriations for land purchases for nonreservation Indians and for the relief of distress among them, was simple pity for a lot of unfortunate people. Occasionally one can find a slight reference to the wrong done when the Senate refused to ratify the 18 treaties made with these Indians in 1851 and 1852, but I have been unable to find anywhere an acknowledgment from any national legislator or Government official of the legal debt due these Indians—a debt which has a money value of millions of dollars. These people are unfortunate because the United States Government took from their fathers and grandfathers land which they owned as truly, legally, and absolutely as the Sioux, Blackfeet, Cherokees, and other "treaty" Indians owned their lands. If gold had not been discovered in California in 1849 it is almost certain that the Indians of that State to-day would be extensive landowners and land users. For it seems to be accepted that it was the influence of the Forty-niners which prevented the ratification of the treaties which the Government commission made with the Indians in 1851 and 1852.

But whatever may have been the reason for nonratification, the cold fact is the land which was occupied by thousands of the original native sons of California and by their ancestors for generations, was taken from them, turned into

the public domain to be later turned over to white people, and this sequence of transactions made thousands of landless Indians on the Pacific coast, and started the California Indian problem. It is this bald, historical fact which ought to be faced and recognized in the framing of a new California Indian policy even though the adoption of a policy based upon exact justice, and not upon pity, charity, philanthropy, or that convenient camouflage "moral obligation," should call for the expenditure of a large sum of money.

The United States, in 1851, undoubtedly recognized the possessory rights of these California Indians to the land they occupied. This categorical statement is justified by the records of the Senate which show that the 18 treaties, signed in good faith by the Government's treaty commission and the Indians, together with letters and reports from the Secretary of the Interior, the Commissioner of Indian Affairs, and the Superintendent of Indian Affairs in California, were laid before the Senate by President Fillmore in 1852. In his report on these treaties to the Commissioner of Indian Affairs, Mr. E. F. Beale, Superintendent of Indian Affairs for California, writes under date of May 11, 1852: "It is evident that if allowed to roam at pleasure their (the Indians') early extinction is inevitable and I am slow to believe that the Government, recognizing as it does, their right to all the soil inhabited by them, would deny them the occupancy of a small portion of the vast country from which such extraordinary benefits was in progress of receipt."

The 18 treaties were signed on the part of the Government by Redick McKee, George Barbour, or Oliver Wozencraft and were signed on the part of the Indians by 401 chiefs, captains, and head men of 119 tribes, bands, and nations, comprising practically all the Indian population of California and almost all the treaties carried the signatures of United States Army officers as witnesses. The treaties were not ratified. They were read in the Senate January 7, 1852, and, with the attached documents, referred to the Committee on Indian Affairs and ordered to be printed in confidence for the use of the Senate. On January 18, 1905, 53 years later, the injunction of secrecy was removed, and the next day 50 copies of the treaties were ordered reprinted for the use of the Senate.

While these unratified treaties lay forgotten by all but the Indians in the secret archives of the Congress, all but 517,118 acres of the several million acres which the Government treaty commissioners told the Indians would be set apart for the sole use and occupancy of the Indians were acquired by the white people of California. The records of the middle decade of the last century, which tell the story of the decline of the California Indians, do not make pleasant reading, for they chronicle atrocious happenings, massacres, murders, heartless evictions, and brutal treatment of an inoffensive people who happened to be in the way of the adventurous, determined gold seekers from all parts of the United States who rushed to California by the tens of thousands in 1849.

The accompanying colored maps, prepared in the board's office from authentic data ("Indian Land Cessions in the United States," compiled by Mr. Charles C. Royce and published, in 1900, by the Bureau of American Ethnology and from other official documents and maps) graphically, and it seems to me completely, tell the story of the looting of the Indians' lands by us, the white people of the United States.

Map No. 1 shows the land areas occupied by the California Indians in 1851, which they quit claimed, in good faith in the unratified treaties, to the United States and the restricted districts which were set apart, in good faith for the Indians with their signed consent.

Map No. 2 shows these reservations again, the home lands reserved for the Indians for their sole use and occupancy forever, and, in red, the comparatively small areas which are the Indian lands in California to-day.

These maps require scarcely any explanation; they picture a shameful record, they call for something more than pity and niggardly charity, they present a strong appeal for exact, even though it may be belated, justice.

It has been estimated that the lands reserved in the treaties for the Indians aggregated 7,500,000 acres, which, at the Government price for public domain lands was worth \$9,375,000. The total land area to-day of Indian reservations and Government owned rancherias is 517,113 acres as given in the last annual report of the Commissioner of Indian Affairs which, at \$1.25 an acre, amounts in value to \$646,397 and all this land is for reservation Indians and Indians who, under the supervision of agencies, live on rancherias. There were about

1,700 allotments made nonreservation Indians in the national forests and on the public domain but a large proportion of such allotments is useless because of the poor character of the soil, remoteness, lack of water or other reasons. The nonreservation Indians, as distinguished from reservation and rancheria Indians, practically, have had no land given them.

On the other hand the net proceeds of sales of the public domain in California, received by the United States through the General Land Office to June 30, 1918, amounted, in round numbers, to \$22,785,000, and the State of California received from the Government for the purpose of education, of making public roads and improvements, up to June 30, 1918, \$1,139,248.57 or 5 per cent of the sales of public lands lying within the State. The value of the lands reserved out of the public domain for national forests and national parks is enormous. And nearly all of such lands only a little more than half a century ago was used and occupied by Indians whose possessory rights to them were recognized by the United States Government.

It is worthy of note that the two most important areas of land which have been set apart for the Indians and are now held, in trust, for them by the United States, are the Hoopa Valley and Round Valley reservations in the northwestern part of the State. These reservations were established for the purpose of coralling prisoners of war—Indians who, driven to desperation by the cruelties and aggressions of the white intruders, dared to fight and so to-day own land. The Government practically ratified the treaties made with the Indians who resisted.

On the other hand, Indians who peacefully trusted the great Government which had made treaties with them in good faith, as they believed and as their descendants still believe, quietly moved into the restricted areas, carrying out their treaty stipulations, only to be driven away, evicted from their own home lands, knocked from pillar to post, and scattered apart until to-day most of the names of tribes and villages are lost. These are the landless or nonreservation Indians of California, made so apparently because they did not fight the great white people who had taken their lands from them.

In addition to the restricted areas which the treaty commissioners set apart for permanent home lands for the Indians they were promised, in the unratified treaties, horses, mules, plows, clothing, and other goods which, it has been estimated, had a value at the time of \$1,800,000, and, also, they were promised white farmers, blacksmiths, carpenters, and others to teach them useful handicraft; also school teachers "to live among and work for and teach said tribes and such others as they may be required to work for and teach" so long as the President of the United States should deem it advisable. The eighteen treaties were substantially alike in form, provision, and stipulations, so much so that the reading of one will acquaint you with the character of all and, therefore, I respectfully refer you to the copy of one of the treaties which is appended to this report as an exhibit.

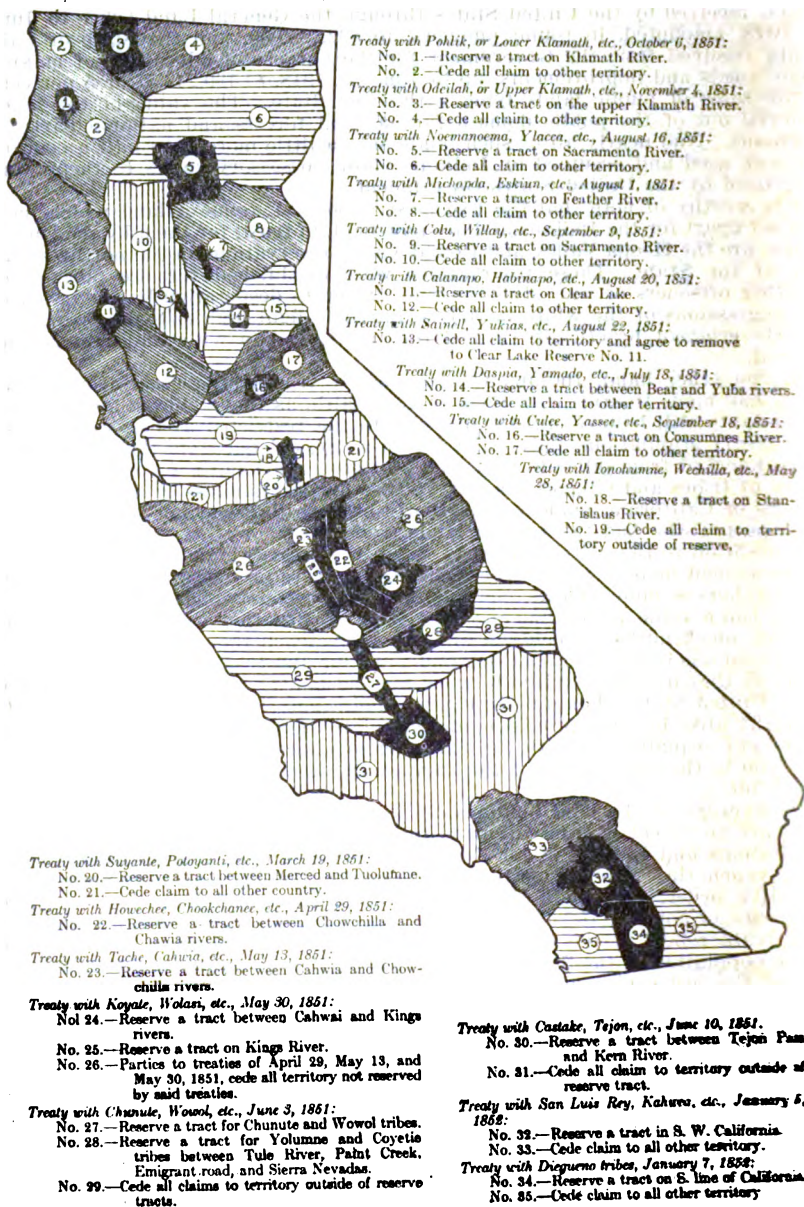
The average of the land holdings of the California Indians is but 32 acres. There are no "treaty" reservations in the State. All lands occupied by reservation Indians and Indians under Federal supervision, who live on Government-owned rancherias, were set apart from the public domain by acts of Congress, by Executive order, or bought from congressional appropriations. About 1,700 allotments, of not over 160 acres each, have been made nonreservation Indians.

The 1919 report of the Commissioner of Indian Affairs gives 16,215 as the Indian population of the State and a total area of reservations of 517,118 acres, making the per capita acreage 32. If there is included in the Indian land acreage the public domain allotments, and the land bought for nonreservation Indians since 1906, the per capita acreage will be about 50.

Included in the 317,118 acres of California Indian land is the Palute reservation in Inyo and Mono counties, which was established by Executive order in 1912. I was told by several Indian Service men, who had been on this desert reservation, that no Indians lived on it because it was uninhabitable—there is not water there and no way to get water.

The small per capita acreage of Indian land in California seems to shrink to even smaller dimensions when compared with the per capita holdings of Indians in other Pacific coast and the Mountain States. The following schedule is compiled from the 1919 report of the Commissioner of Indian Affairs and shows the number of Indians in each of the selected States, areas of Indian land under

Map 1—SHOWING AREAS INVOLVED IN THE 18 UNRATIFIED TREATIES OF 1851 AND 1852 WITH CALIFORNIA TRIBES



Map 2—SHOWING AREAS THAT WERE TO BE CEDED BY THE 18 UNRATIFIED TREATIES WITH CALIFORNIA TRIBES IN 1851 AND 1852



Federal supervision (exclusive of public domain allotments), and the per capita acreage:

States.	Indians.	Acreage.	Acres per capita.
California.....	16,215	517,115	32
Oregon.....	6,600	1,718,000	260
Washington.....	11,000	2,700,000	245
Idaho.....	4,000	682,000	170
Montana.....	12,000	6,000,000	500
Wyoming.....	1,700	2,100,000	1,235
Colorado.....	821	468,000	570
Utah.....	1,600	1,640,000	1,025
New Mexico.....	20,000	4,700,000	216
Arizona.....	42,000	18,000,000	444
Nevada.....	5,800	735,000	127

Before concluding this effort to justify the proposition that the United States not only is morally and in good faith bound to go further than it has gone to right the wrong done the nonreservation Indians of California but, also, is legally their debtor, I would like to call your attention to this point, viz: The nonreservation Indians were the same, in all respects, in 1851, as the Indians who, later, became reservation Indians and who were given more than half a million acres of land. If the reservation Indians were entitled to land then the nonreservation Indians had identical rights.

The Government did carry out a part of the unratified treaties with part of the Indians. Because it did so does it follow, then, that the other Indians thereby lost their rights? Of course it is clearly understood that it is now too late, as a matter of fact it is impracticable and unadvisable, to even approximate the promises as respects land holdings carried in the unratified treaties. To do so would be to make landed proprietors of a large number of incompetents—an absurdity on the face of it.

The Indian Office can show that it has spent large sums of money in California and accomplished much good results for the Indians but the great bulk of the expenditures, and most of the activities, were for reservations administration, for the operation and maintenance of three nonreservation schools and for the benefit of reservation Indians. The nonreservation Indians, having identical rights with the reservation Indians as creditors of the United States, have had comparatively little done for them.

And I am not forgetting that since 1906 something like 8,000 acres of land, costing around \$161,000, have been bought for California Indians and that a considerable sum of money has been spent by the Indian Service to relieve distress among them. But, apparently, there has been no thought of recognizing the just claims of these Indians by the Government and of the obligations imposed on the Government by such claims and no systematic administrative methods employed to meet such obligations. Rather, it would seem we have been trying to get past a bad job by feeling sorry for what had happened and congratulating ourselves that landless Indians were made so through no fault of ours.

The solution of the problem presented by a few thousand Indians—the precise number is unknown—will not call for any radical departure from Indian Office administrative methods nor for any startling appropriations. It might, however, be necessary for a time to place in California an Indian service organization particularly charged with the duty of buying land, aiding superintendents and agents to increase public school attendance and care for the disabled and destitute Indians, and in general of looking after the interests of the nonreservation Indians.

The home life of these Indians must be considered in any scheme to assure ample school facilities and permanent home sites. Education for the children and permanent home sites for their families go together. Most of the nonreservation Indians live in bands or communities convenient to work, water and wood, although, in many places it is necessary to go considerable distances for wood and water. A large number of Indians, however, live in isolated localities apart from communities. Whether living in bands or alone most of the Indians are squatters on white men's land liable to eviction at any time.

But few of these nonreservation Indians, so few that the number is negligible, derive their entire support from their own farms and the common opinion of

white people of the State who have had much to do with the Indians is that any efforts to make self-supporting farmers out of them, of this generation at least, will be futile. And this opinion is soundly based on the knowledge that the non-reservation Indians have not reached that point in their progress where they have a real appreciation of land ownership and the value of self discipline. In many respects they are childlike; in many ways dependent. They are unused to accepting responsibilities and assuming the initiative. They are unlearned in farm and property management.

They are uneducated, illiterate, and ignorant of white men's ways, although they have been living among white people for several generations. But more than all else they have for generations been treated by their white neighbors as an inferior people and have been accepting that appraisal quite as a matter of course, and yet they are a self-supporting people. They get their own living by the work of their own hands. But it seems they must work for others, for, as a rule, they are incapable of carrying on any kind of business—agricultural, industrial, or commercial—for themselves.

With apparently few exceptions the California Indians are seasonal, or casual, work people. The earning time for the great majority of them is the growing seasons—spring, summer, and fall. Most of them are idle during the winter months. In the beginning of their work season they migrate to the hop fields, vineyards, the prune, apricot, and other orchards, to the citrus groves, ranches, and rice fields. When the salmon are running those in the North work in the salmon fisheries and canneries. During the harvest time many Indians are found in the factories where vegetables, fruits, olives, etc., are canned.

A large number of them find employment in sawmills, on the surface of mines, in logging camps, and on railroads, and public roads. During sheep shearing these Indians are in demand, and many of them are shepherds for white men. They herd cattle, milk cows, and do general farm labor. The women who live near cities and towns go out by the day as domestics and laundresses.

I have said they migrate to the places where they find work. This literally is the fact, for during the earning season the Indians take their families with them to the fields, ranches, and orchards and are there for months at a time. The Indian villages are deserted by all save a few of the old folks, who stay at home as caretakers.

Indian labor generally is preferred by white employers of the State. The Indians are regarded as faithful, honest, and fairly reliable work people. It is true they will knock off work for what seems to their employers to be trivial reasons, and sometimes their social gatherings, fiestas, and religious demands interrupt important labor at critical times, but, as a rule, the Indians work without requiring watching and carry out their contracts and orders.

The exact number of Indians in California is not known. Estimates range from 15,000 to 25,000. The reports of superintendents having jurisdiction in the State, and which are contained in the 1919 report of the Commissioner of Indian Affairs, give a total Indian population of 16,215, of which 5,231 is frankly put down as an estimate of the number of "scattered" or nonreservation Indians. From what I have seen and heard in this survey, I am of the opinion that this estimate of 5,231 is most conservative.

Every superintendent and agent in California told me he did not know how many nonreservation Indians were in the district under his supervision and that he was constantly meeting Indians he never had heard of before. It is not at all surprising that these Indian Service officials can not definitely report the number of their nonreservation Indians; the reason is clearly apparent to one who goes into the nonreservation Indian sections of the State. Most of this class of people live in the mountain regions. Those who live apart from known bands or communities are scattered over great areas of rugged country where the roads are nothing but faint trails which lead over foothills and mountain sides, through valleys and canyons, and into the deep woods. These Indians ever are on the move; many of them have two names, Indian and the nicknames given by white people. They seldom come in contact with Indian Service people. A county official told me it would be easier to take a census of the jack rabbits in his county than of the scattered Indians, and a man who undertook to enumerate these Indians for the last Federal census said he made every endeavor to secure an accurate count, but was satisfied he had missed a large number because he could not reach them.

A curious paradox is presented by the nonreservation Indians. Among them are "landless" Indians who, living on Government-owned rancherias practically have land, and land-owning Indians, who, having allotments which are worthless

to them, practically are "landless." Rancherias, so called, are tracts bought by the Indian Service some years ago, upon which bands of Indian squatters were located. No Indian owns a foot of Government rancheria soil, but they are assured of undisturbed possession of assigned lots—home sites—so long as they occupy and use them. There are rancherias which were owned by Indians before the Government bought contiguous acreage to care for the congested colonies, and there are Government-owned rancherias whose colonists have bought in common adjoining lands for themselves. The best examples of rancherias are found in Mendocino, Lake, and Sonoma counties, north of San Francisco. Most of the allotted nonreservation Indians live in the northern part of the State.

The California Indians may be divided into the following groups:

Reservation Indians	6,053
Nonreservation Indians who live on rancherias, approximately	4,300
Nonreservation Indians, including about 1,700 allotted	5,571
Total Indian population	16,215

Census by counties.

County.	United States census, 1910.	Northern California Association census, 1909.	County.	United States census, 1910.	Northern California Association census, 1909.
Alameda	41	30	Orange	21	
Alpine	94	200	Placer	102	
Amador	143	146	Plumas	390	
Butte	298	349	Riverside	1,580	
Calaveras	161	125	Sacramento	62	
Colusa	169	95	San Benito		
Contra Costa	3		San Bernardino	573	
Del Norte	337	261	San Diego	1,516	
El Dorado	177	291	San Francisco	46	
Fresno	313	445	San Joaquin	8	
Glenn	32	67	San Luis Obispo	14	
Humboldt	1,652	1,718	San Mateo	1	
Imperial	682		Santa Barbara	45	
Inyo	792	1,062	Santa Clara	18	
Kern	220	300	Santa Cruz	13	
Kings	32	132	Shasta	756	
Lake	433	618	Sierra	54	
Lassen	410	474	Siskiyou	1,109	
Los Angeles	97		Solano	1	
Madera	419	610	Sonoma	340	
Marin	26	100	Stanislaus	30	
Mariposa	192	190	Sutter	18	
Mendocino	1,170	1,425	Tehama	94	
Merced			Trinity	227	
Modoc	546	753	Tulare	204	
Mono	386	536	Tuolumne	186	
Monterey	29	123	Ventura	3	
Napa	6		Yolo	32	
Nevada	52	56	Yuba	16	

NOTE.—Census of Northern California Indian Association covered 38 of the 58 counties.

Total Indian population, United States census, 1910, 16,371; report of Commissioner of Indian Affairs, June 30, 1919, 16,215.

The Indian population remains about stationary, for the United States census of 1910 gives 16,371 as the total number of Indians in California. The attached statement shows the number of Indians in each county according to the United States census of 1910. It will be noted that in each of 27 counties the Indian population is less than 100; in each of 11 counties the population is between 100 and 300; in 10 counties between 300 and 600; in 3 counties between 600 and 1,000, and in 5 counties the population is over 1,000 in each.

Landless Indians (nonreservation Indians who do not live on rancherias and who have no allotments) are found in almost every county of the State, but they are more numerous in the northern part and on both sides of the Sierra Nevada Range down the eastern length of the State, and no one knows how many there are of them. The reservation Indians proper are those who live in the Hoopa Valley Reservation in Humboldt and Del Norte Counties, in the

Round Valley Reservation in Mendocino County, in the **Tule River Reservation** in Tulare County, in a little reservation near Bishop, Inyo County, in a small reserve of 380 acres near Jackson, Amador County, in another small reserve at **Tuolumne**, Tuolumne County; in the **Fort Yuma Reservation**, Imperial County, and in the 29 **Mission Indian Reservations** in Riverside, San Diego, and San Bernardino Counties in the southern part of the State. The Indians who live on the Colorado River in the Colorado River Reservation in the southeastern part of the State are under the jurisdiction of the superintendency in Arizona.

Local prejudice against the public school coeducation of Indian and white children is not so strong in California as it was. Nearly everywhere in the State I found those who are interested in the welfare of the nonreservation Indians more encouraged because of the increased public school attendance of Indian children. In some places the feeling against teaching Indians in white schools still is strong but there is no doubt that, in general, the old time antipathy is passing. This, of course, is largely due to the payment, begun a few years ago by the Indian Office, of tuition for Indian children in public schools whether in separate schools established under the State law for Indians or in those where the white and Indians are taught in common.

In 1915 the superintendents of California reservations and agencies reported only 316 Indians attending public schools; in 1916 this number jumped to 1,469, increased to 1,541 in 1917, to 1,820 in 1918, and to 2,199 in 1919, an increase of over 700 per cent in four years.

Under the school law of California every child, whether white or Indian, is entitled to a public school education and parents or guardians are compelled under the law to send the children to school. There is a provision in the law, though, which gives the governing authorities of school districts the power to establish separate schools for Indian children and requires them to attend such schools. But if there are no separate schools then the Indian children can not, lawfully, be barred from white schools. There are a number of schools established exclusively for Indians in the State.

The question whether it would be better to send Indians to public schools established exclusively for them or to send all Indian children to schools where they would be taught in common with white children is debatable. There are those who hold that in the elementary school years Indian children should be segregated in separate schools. The advocates of separate schools for Indian children in the elementary grades argue that a full-blood Indian child is seriously handicapped by its limited knowledge of the English language, by its sluggish mentality, by its natural bashfulness, by the economic conditions which compel its parents to migrate, with the families, to the fields, orchards, and other places where the parents labor, thus keeping the child out of school a good part of the year, and because the child can not progress in his class fast enough to keep pace with the white children. It also is pointed out that it is most difficult for a teacher to teach both white and Indian children in the same class in the elementary courses and that, as a matter of fact, the average teacher of Indian and white children discriminates in favor of the whites.

I was told by several county superintendents that it was becoming more and more difficult to secure competent teachers for public schools attended by both Indian and white children and that in some cases the teachers of such classes demand higher pay.

At this writing the number of children of school age of nonreservation Indians is not precisely known. In the commissioner's 1919 report the total number of Indian children attending Government, mission, and public schools is given as 3,897 out of a total of 4,579 who were eligible for school attendance, apparently leaving 682 eligible children out of school, but the figures include an estimate of the children of an estimated 3,000 "scattered" Indians, so that the total of school attendance includes both the known and estimated attendance. The public school attendance is given in the report as 2,199, of which 1,471 are credited to the Greenville Agency alone, where all the children are of the nonreservation class.

Of the \$100,000 allotted by the Indian Office to public school tuition out of the general appropriation for Indian school support for 1919, a total of \$6,131.27 was expended by the Indian Office for public school tuition in California, in the following jurisdictions: Hoopa Valley, none; Round Valley, \$873.68; Fort Bidwell, \$74.48; Greenville, \$2,339.92; Digger, \$240.90; Bishop, \$163.80; Tule River, none; Campo, none; Malki, \$391.74; Yuma, none; Pala, \$378.85; Soboba, none; Reno, Calif., \$1,767.90; total, \$6,131.27.

At 15 cents a day, the common Government rate of pay for public-school tuition, this amount would call for 40,875 school days, or for about 108 days tuition for 408 Indian children, but it is known that many more than 400 children are "paid" scholars. A large number of nonreservation Indian children are attending the public schools in California on the same footing as white children, without payment of their tuition by the Government.

I was unable at Sacramento to secure any figures at all from the office of the superintendent of public instruction of the number of Indian children attending the public schools, and I found that few county superintendents of schools knew how many Indian children of school age were in their counties and how many attended public schools, for Indian school attendance is not segregated in school statistics.

When I was in that State a census of minors was being taken by county superintendents of schools under the direction of the State superintendent of public instruction. This census will be more than a mere counting of noses, for its inquiries will develop much of the home life, living conditions, health condition, etc., of children of school age. The county superintendents were instructed to segregate the data touching Indian children. All this information will be available in February and will afford a sound basis for arriving at the number of nonreservation Indian children of school age in California. These data, with the census figures of the two special investigators of the Indian Office, should furnish the Indian Office and Congress with sufficient information to permit the adoption of a practical policy designed to furnish ample school facilities for all the Indians in California.

At Sacramento I had an interesting conversation with Mr. Job Wood, jr., deputy superintendent of public instruction, and found that the State's directors of the public school system are heartily in favor of doing all the State can to advance the interests of the Indian children.

Mr. Wood told me that the new compulsory educational law, passed at the last session of the legislature, applies to any child, irrespective of race or color in the State, who is between the ages of 8 and 18, unless the child is exempted by the county superintendent of schools. Thus, all Indian children outside of the reservation can be compelled to attend the public schools.

Before a new school district can be formed there must be a minimum of 15 census children living in the proposed district who are between the ages of 5 and 17 years. There is no law which authorizes the expenditure of State or county funds to build a district schoolhouse. It must be put up by the district, and the school must be maintained at least a year by the district before it can secure State aid to pay the teacher.

In the mountain districts, where much of the land, being public domain or national forest, is untaxed and therefore provides no revenue, the school districts are poor. It is in such sections where most of the nonreservation Indians live, and if a new district school is built for them it would stand as a place so remote from a white community that it would be necessary to build a home for the teacher in addition to the schoolhouse, for no white woman would live with an Indian family.

This requirement, Mr. Job thought, practically prohibits the organization of new school districts in the mountain country where the Indians live, for the expense of building the school and teacher's house and of maintaining the school during the probationary period of a year would be too large for a poor school district to handle, and the board of supervisors simply would not attempt to build the school, even though the members might be willing to help educate the children.

It would appear, then, from Mr. Wood's statement, that since neither the State nor county can build a district school, and State aid toward the payment of the teacher can not be had until after the school has been running for a year, at least, that some way will have to be devised by which the United States Government can erect a new school building and maintain the school for a year. This matter is an important one and should enter largely into any consideration of ways and means to accelerate the education of nonreservation Indian children.

I have seen two public schools maintained by the State, using buildings which had been erected by the Government; one near Ukiah, Calif., and the other in Browning, Blackfeet Reservation, Mont., and, probably, there are others. The question of adopting the policy of aiding new school districts in California to open public schools for nonreservation Indians is a large one, for it would involve the expenditure of a considerable sum of money not only for the build-

ing of schoolhouses and the maintenance of the schools during the probationary period, but, in many cases, it would require the building, also, of homes for teachers.

In an effort to ascertain the sentiments of county superintendents of schools in regard to public school attendance of nonreservation Indians, letters of inquiry were written a number of them. Ten replied, and if they share the common state of mind of California's school authorities, then the general feeling of most of the county superintendents is that the Government and State should cooperate in the education of the Indians.

There is some difference of opinion as to the capabilities of Indian children in schoolrooms, for some county superintendents find they are but indifferent scholars, lazy, mentally sluggish, and far below the average of white children, while others write that the Indians are good scholars. Apparently there is but little racial prejudice against Indian children attending school with white children, but objections in some places are noted, the objections being based on the fear of white parents that the Indians may bring trachoma, tuberculosis, and even social diseases to school with them.

An abstract of the replies has been prepared and is appended to this report as an exhibit to which your attention is respectfully directed.

Permanent home sites for landless Indians, grouped in colonies on tracts of land in every way suitable for villages, to be bought and, for a time held by the Government, will go a long way toward solving the problem under consideration. Bearing in mind that such Indians are but common laborers who seek employment at varying distances from their living places; that though some rent patches of land for home sites the larger proportion are squatters, ever facing summary eviction and, therefore, practically forced to live in shacks and huts built of odds and ends, necessarily of the most temporary construction; that it is the nature of the Indians to live in bands or communities; that their mode of living, imposed upon them by economic conditions, breeds filth, squalor, and diseases, retards progress by killing ambition and discouraging the development of self-respect, and that all such evils can be directly traced to the fact that the Indians have not the slightest assurance of home site permanency, the colony system presents the most practical, the most economical, and the most promising way to hasten the progress toward civilization of these Indians.

The Government-owned colony or rancheria is no novelty. A large number of landless Indians have been living, and progressing, in such communities for years in California and Nevada. But the instant success of the two colonies established near Reno, Nev., and Yerington, 75 miles south of Reno, within two years by the Indian Office has emphasized so distinctly the great constructive value of home sites, with favorable environment, for the Indians which they know are permanent, that I beg leave to describe the colony between Reno and Sparks.

About two and a half years ago I visited the western part of Nevada, inquiring into the conditions of the Paiutes and Washoes and found hundreds of them living under the most distressing conditions. What they called "homes" were but hollow scrap piles of alley and ash barrel odds and ends thrown together upon patches of land so barren of everything regarded as prime necessities for man's habitation that they were utterly wretched. The Indians were a degraded lot, despised, treated with contempt by their white neighbors; their children were barred from the public schools; they simply were tolerated because their labor was useful and cheap.

A few weeks ago I saw the same Indians, living on 20 acres of land midway between Reno and Sparks, land which had been bought by the Indian Office for \$300 an acre and worth more; land with water for irrigation and domestic use; land surrounded by a substantial wire fence with a wide street down the center of the tract with young trees planted on both sides; level land, every foot available for home lots and gardens. I saw Indians whom I had pitied a few months previously living in neat cottages which they, themselves, had built; cottages having from three to four rooms; wood floors; brick chimneys; doors; windows with lace curtains, shades, and fly screens; cottages with gardens behind. I saw an automobile bus taking Indian children to the Reno public school. And all this change came almost immediately after the Indians began to move onto the colony tract about two years ago.

When I first saw this tract it was an alfalfa farm adjoining Reno. The entire cost, to the Government, of this project up to last November—and this prac-

tically includes everything excepting the necessary house for the matron and a community house—was as follows:

Land, 20 acres, at \$300-----	\$6,000.00
Division fence-----	125.00
Survey-----	17.70
Well, for domestic water-----	346.85
Culverts, drainage and irrigation-----	96.50
Trees and shrubbery-----	158.40
Outhouses, 20 at \$8-----	160.00
Total-----	6,905.45

Less than \$7,000 used to lift over 100 wretched Indians out of the city dump, the alkali swamp, and the sewer in which they had been existing.

To complete the plans for this colony will require only \$6,000, of which \$4,000 is estimated for a matron's house and \$2,000 for a building to be used as a community center, warehouse, and village hall. The colony will take care of at least 100 families, each having a lot 50 by 150 feet, so that each family can have a garden patch and room for a horse or cow. The purchase of the land carried with it 60 shares in the Scott Ranch Ditch Co. for water rights and it will cost about \$20, which the Indians are expected to pay for ditch maintenance.

A street 40 feet wide has been laid out through the center of the village. When the Indians first came on, the tract their temporary shacks were built on, the backs of the lots where the alley will run. The permanent houses are being placed on the building line in the front of the lots. Fruit trees, apples, pears, plums, and crab apples, have been planted for shade trees on both sides of the street and the shrubbery is currants, gooseberries, and raspberries. Asparagus and rhubarb are to be planted in each lot and a row of fruit trees will be planted along the alleys.

The outstanding difference between the Reno-Sparks colony and the rancherías heretofore established in California is that the Reno-Sparks colony has been laid out as a village and not as an aggregation of little farms. The fact that landless Indians in Nevada and California are not and, for years to come, will not be self-supporting farmers, has been recognized in planning the Reno-Sparks colony which has been established primarily as a village for laborers who will have comfortable homes to come to and from their work.

The Yerington colony uses 10 acres of irrigated land adjoining the city limits. The land cost about \$1,200 and is colonized by about 150 Paiute Indians, or 75 families. The children are not admitted, as yet, to the public school at Yerington but are taught in the Catholic mission school. A number, however, attended the Carson nonreservation school. This colony was opened in the fall of 1918 and all the Indians moved to the tract the day it was opened. The village has three wells and is arranged much after the fashion of the Reno-Sparks colony.

About a mile from the statehouse in Carson City is 160 acres which is being developed into the Carson Colony and Home for Old Washo Indians. It will take care of 200 Washoes, the money for its purchase and development coming from the Washo Indian appropriation. A good eight-room house on the property will be used as the matron's cottage and other buildings are being remodeled for the old folk's home. This tract, with improvements, cost \$3,500.

At Lovelock, northeast of Reno, is the first of the Nevada colonies founded about 1910. It provides for 30 families and has a day school with houses for the teacher and matron. This land is not irrigated but the Indians have water for home uses. It was the Lovelock colony which demonstrated the success of establishing villages for Indians with the idea that they need only permanent home sites, with the right kind of environment, to encourage them to go ahead. Other colonies in Nevada, which are in the making, are at Battle Mountain, Winnemucca, and Elko.

These Nevada colonies might well be taken as models for colonies or villages for the landless Indians of California for they represent the latest development in the activities of the Indian Service which are used to encourage Indians who have "lost out." Until recently the purpose of buying land for Indians seems to have been to make farmers of them, and large tracts were bought so as to give 10 to 20 acres to a family. In some cases, where the land was of good soil, with water for irrigation, this purpose might have been

realized, but too much of the land heretofore purchased for California Indians is waterless, and in California land without water is of little value except for rough grazing and of no value for that unless tracts of very large acreage are used.

Since 1806 the Indian Service has brought 8,300 acres of land for 4,600 California Indians at a land cost of \$161,200. Of this amount about \$34,300 was used to buy land for the Mission Indians in the three southern counties of the State; \$95,100 was spent for land for new rancherias and to augment the areas of rancherias owned by Indians in five contiguous counties in the north-western part of the State; and \$31,800 went for small tracts for bands living in 15 scattered counties.

Almost all of this land was purchased out of appropriations, aggregating \$150,000, authorized in the acts of June 21, 1906, and April 30, 1908, and the appropriations were predicted on an investigation of the condition of California Indians by Mr. C. E. Kelsey, a special agent of the Indian Service. So far as I have been able to learn this investigation is the only survey ever made, prior to the one in progress, of the nonreservation or landless Indians of the State.

Mr Kelsey's report has been the basis of practically all appropriations made for nonreservation Indians in California and properly so. He went thoroughly into the situation, made as good a census as one man, in the limited time given him, could make, and his conclusions and recommendations substantially are as timely to-day as they were 14 years ago and might well be considered in connection with the survey now being made of the landless Indians. A copy of his report is appended hereto as an exhibit.

Among the recommendations he made are the following:

"That those Indians who are landless through an act of omission of the National Government, shall receive land in lieu of any claims they may have against the Government, moral or otherwise; that the land shall be of good quality with proper water supply, and shall be located in the neighborhood in which the Indians wish to live; that this land shall be given under some such plan as that pursued at Fort Independence, each family being consigned to not exceeding 10 acres, or such small tracts as the conditions may warrant; this land to be purchased and assigned by a commission appointed by the Secretary of the Interior, the majority of the members to be experts in northern California land conditions.

"That those Indians who have received worthless desert allotments shall have the privilege of exchanging them for the same size and character as proposed for the landless Indians in northern California, and that the allotments so surrendered shall be restored to the public domain; that those Indians who have received mountain or timber allotments shall have the privilege of exchanging them for allotments of the same size and character as those appropriated for the landless Indians of northern California and the allotments so surrendered be added to the forest reserve."

Mr. Kelsey's recommendation that a commission be appointed to buy the lands was not adopted. Instead he was detailed by the Commissioner of Indian Affairs to purchase land for the landless Indians and for the Mission Indians. Something over 60 parcels of land were bought by him and, from subsequent appropriations, by other Indian Service agents. The following is a list of such purchases:

Band.	County.	Number In- dians.	Acres.	Amount.
San Manuel	San Bernardino	56	12.63	\$1,995.50
Pechanga	Riverside	179	235	6,650.00
Palm Springs	do.	35	800	6,000.00
Santa Rosa	do.	70	640	2,560.00
Los Coyotes	San Diego	165	160	800.00
Campo	do.	165	1,040	14,500.00
San Pasqual	do.	66	200	1,800.00
Smith River	Del Norte	163	163	7,200.00
Crescent City	do.	50	100	3,500.00
Trinidad	Humboldt	43	60	1,198.00
Blue Lake	do.	45	28	1,500.00
Lower Eel River	do.	60	20	3,000.00
Bear River	do.	29	15	1,500.00

Band.	County.	Number In- dians.	Acres.	Amount
Hopland.....	Mendocino.....	130	680	\$5,730.00
Laytonville.....	do.....	48	200	2,400.00
Guldiville.....	do.....	92	40	3,000.00
Coyote Valley.....	do.....	48	100	2,481.00
Potter Valley.....	do.....	72	16	2,000.00
Redwood Valley.....	do.....	51	89	2,000.00
Manchester.....	do.....	84	75	4,908.75
Sherwood.....	do.....	92	230.72	5,760.00
Ukiah.....	do.....	120	95.28	8,500.00
Point Arena.....	do.....	40		800.00
Guldiville.....	do.....		34.12	2,100.00
Sherwood.....	do.....	41	60	431.61
Upper Lake.....	Lake.....	285	143	5,000.00
East Lake.....	do.....	134	38	5,000.00
Middletown.....	do.....	51	108.70	2,650.00
Scotts Valley.....	do.....	66	86.08	3,908.00
Big Valley.....	do.....	92	80	12,000.00
Alexander Valley.....	Sonoma.....	74	24	1,800.00
Wappo.....	do.....		30	2,500.00
Dry Creek.....	do.....	75	75	1,675.00
Stewarts Point.....	do.....	118	40	1,100.00
Sebastopot.....	do.....	76	40	1,600.00
Pitt River.....	Shasta.....	85	120	1,785.00
Montgomery Creek.....	do.....	62	72	400.00
Etna.....	Siskiyou.....	86	480	3,288.00
Cedarville.....	Modoc.....	82	17	1,000.00
Mooretown.....	Butte.....	53	80	700.00
Enterprise No. 1.....	do.....	51	40	160.00
Enterprise No. 2.....	do.....	8	40	182.56
Strawberry Valley.....	Yuba.....	14	5	208.90
Colus.....	Colusa.....	63	40	3,800.00
Cortina.....	do.....	47	480	4,800.00
Grindstone.....	Glenn.....	58	80	1,030.00
Rumsey.....	Yolo.....	48	75	2,000.00
Colfax.....	Placer.....	64	40	800.00
Eldorado.....	Eldorado.....	58	80	1,500.00
Sheep Ranch.....	Calaveras.....	12	2	150.00
Tuolumne.....	Tuolumne.....	78	288.52	3,500.00
Millerton.....	Madera.....	55	140.86	1,800.00
North Fork.....	do.....	200	80	550.00
San Joaquin.....	Fresno.....	114	280	2,800.00
Table Mountain.....	do.....	90	160	1,600.00
Bishop.....	Inyo.....		15	1,125.00

Nonreservation Indians are citizens of California so declared to be in a decision of the Supreme Court of the State, handed down March 8, 1917, in the case of Ethan Anderson, an Indian of Scott Valley, Lake County, against Shafter Mathews, county clerk of Lake County. The court held that a nonreservation Indian of California, even though he might be a ward of the Government, was a citizen of the State. This decision, while it gave the Indians the right to vote—a few of them have taken advantage of the right—placed the sick, indigent, old, and helpless in a perilous situation; it developed a wide difference of opinion in the matter of caring for them.

It is held, by some authorities, that the Indians, being wards of the Government, should be taken care of exclusively by the Government; that the Indians, being citizens of the State should be taken care of, exclusively, by the State; that as the Indians are both wards of the Government and citizens of the State they should be taken care of by both Government and State.

I found the popular idea to be that the Government and State should cooperate in the care of the sick, indigent, old, and helpless Indians. The difficult factor in this proposition is cooperation between the Government and local authorities, how can it be effected. There would be no trouble if the county authorities clearly recognized their responsibility in the matter. In some counties Indians are admitted to the county hospitals, poorhouses, and other institutions; in others they are not.

The Indian Office seems to take the view that since the Supreme Court of the State has definitely decided that the nonreservation Indians are citizens of California they should be recognized as citizens by county authorities and admitted to county institutions on the same footing as other citizens; that at least the County should be willing to pay half of the expense for their care in hospitals, poorhouses, etc.

The Indian Office may be right, but what is a sick, indigent Indian is refused medical and hospital attention by the county and the Government refuses to give him needed care because the county will not do its part and the Indian dies during the debate? This might happen, and probably will happen, unless a practical arrangement for active cooperation is effected between the Government and county.

Congress can appropriate money for the care of the sick and distressed Indians and the Indian Office can use the money for that purpose, but neither Congress nor the Indian Office can force the county authorities of California to do their part at the risk of Indians dying because neither party to the controversy pays any attention to him. Every Indian official in California told me his allotment of funds for the care of the old, destitute, sick, and helpless Indians never is enough; that every year the demand exceeded the allowance.

In this connection I respectfully direct your attention to some letters I wrote a number of county physicians and health officers in California with the purpose of developing their ideas in regard to the care of needy Indians. A number replied and their observations have been abstracted and are attached hereto as an exhibit. It will be noted that the health officials are about evenly divided between those who think the Government should take care of the Indians and those who are in favor of Government and county cooperation.

I feel certain that the white people of California are beginning to take a decided interest in their Indian neighbors; evidences of a change in public sentiment toward the Indians are found all over the State. Womens' clubs, social service organizations, churches, associations formed for the single purpose of helping helpless Indians, and men and women working on their own initiative are in the field, and there is small doubt, in my mind, that in a comparatively short time, the Indian Office will have the active and effective cooperation of some of the best people of California in any efforts to advance the welfare of all Indians, reservation and nonreservation, in the State.

Faithfully, yours,

MALCOLM McDOWELL,

Member, Board of Indian Commissioners.

The honorable the SECRETARY OF THE INTERIOR.

TREATY MADE AND CONCLUDED AT CAMP BELT, ON KINGS RIVER, IN THE STATE OF CALIFORNIA, MAY 13, 1851, BETWEEN GEORGE W. BARBOUR, COMMISSIONER ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE TACHES, CAH-WAI, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Belt, on Kings River, in the State of California, on the 13th day of May, 1851, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains, and head men of the following tribes of Indians, to-wit, The Ta-ches, Cah-wai, Yo-kol, Ta-lum-ne, Wis-chum-ne, Hol-cu-ma, To-e-neche, Tu-huc-mach, In-tim-peach, Choi-nuck, We-mil-ches, and Mo-ton-ties, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the Government of the United States, and undertake and promise on their part to live on terms of peace and friendship with the Government of the United States and the citizens thereof, with each other, and with all Indian tribes.

ART. 2. It is agreed between the contracting parties that for any wrong or injury done by individuals of either party to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that a district of country between the Cah-wai River, or the first of the four creeks, and the Chou-chille River, to be laid off as follows, to-wit: Beginning at the point in the Cah-wai River where the southwestern line of the land set apart for the Indians at the treaty made and concluded at Camp Barbour, on the San Joaquin River, leaves said river for the Chou-chille River; running thence down the middle of the Cah-wai

River to the Tulare or Tache Lake; thence along the same in the direction of and to the mouth of Kings River, thence up said river to a point 6 miles below where the said southwestern line of the lands set apart for the Indians at the treaty made at Camp Barbour on the San Joaquin River as aforesaid, crosses said Kings River; thence a line to the Chou-chille River to be run parallel to the aforesaid line crossing the San Joaquin and Fresno Rivers, and intersecting the Chou-chille at the distance of 6 miles from said southwestern line; thence up the Chou-chille to said line and with it to the beginning, on the Cal-wai River, shall be set apart and forever held for the sole use and occupancy of said tribes of Indians; in consideration of which, and the further consideration of permitting said tribes to hunt wild game and gather wild fruit, nuts, etc., in the hills and mountains between the Cal-wai and Chou-chille Rivers the said tribes hereby forever quitclaim to the Government of the United States to any and all lands to which they or either of them may ever have had any claim or title.

ART. 4. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years 1851-52, it is agreed by the party of the first part to furnish said tribes jointly (to be distributed in proper proportions among them) with six hundred head of beef cattle, to average five hundred pounds each, and five hundred sacks of flour, to average one hundred pounds each, for each year.

ART. 5. It is further agreed that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly and free of charge with the following articles, to wit: Fifty brood mares and two stallions, sixty cows and five bulls, twenty-four plows, twelve sets of harness complete, twenty-four work mules or horses, twenty-four yoke of California oxen, two hundred axes, two hundred hoes, one hundred spades or shovels, one hundred picks, all the necessary seeds for sowing and planting for one year, three thousand pounds of iron and six hundred pounds of steel, two thousand blankets, two flannel shirts and two pair of coarse pants for each man and boy over fifteen years of age, three thousand yards of linsey cloth and the same quantity of cotton cloth, and the same of coarse calico for clothing for the women and children, fifty pounds of thread, five thousand needles, five hundred thimbles, and twelve dozen pairs of scissors, and one dozen good grindstones.

ART. 6. The United States agree further to furnish a man skilled in the business of farming to instruct said tribes and such others as may be placed under him in the business of farming, one blacksmith, and one skilled in working in wood (wagon maker or rough carpenter), one superior and such assistant school teachers as may be necessary, all to live among and work for, and teach said tribes and such others as they may be required to work for and teach: said farmer, blacksmith, worker in wood, and teachers to be supplied to said tribes and continued only so long as the President of the United States shall deem advisable: a school-house and all other buildings necessary for the persons mentioned in this article to be furnished by the Government, and for the purpose the Government of the United States hereby retains and reserves to herself in the lands herein set apart for the Indians, not only the right to erect said buildings, but also the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the Government, and the right of way over any portion of said territory.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the contracting parties have hereto signed their names and affixed their seals this 13th day of May, Anno Domini 1851.

G. W. Barbour. Taches: Quintin, chief; Jose Antonio, Sulio, Elarion, Gregorior. Notontors: Manuel, chief; Santiago, Innocente, Estanislao. Jose Quintin, Juan. We-mil-ches: Julian, chief; Jose Martin, Pedro, Jose Antonio Nicolas. Choi-nues: Valentine, chief; Jose Ebon, Francisco, Satronine. Intimpeaches: Antonio, chief; Sisto. Tu-huc-maches: Sylvester, chief; Cervantes. Tor-maches: Castro, chief; Jose Antonio. Holcunas: Hamuch, chief; Tomas. Wi-chun-nas: Bahal, Manuel, Ignacio, Chito. To-lua-nas: To-hil-na, Joaquin. Cal-wais: Francisco, Bautista, Rafael. Yo-kohs: Echa. Juan Tamuto, Jose Maria.

Signed and sealed in duplicate, after being read and explained, in the presence of H. S. Burton, interpreter; N. H. McLean, secretary; W. S. King, assistant surgeon, United States Army; Y. Moore, second lieutenant, Second Infantry. H. G. J. Gibson, second lieutenant, Third Artillery.

QUESTIONNAIRE TO COUNTY SUPERINTENDENTS OF SCHOOLS IN CALIFORNIA.

Desiring to learn the sentiment of county superintendents of schools in California toward the Indians of that State letters of inquiry were sent to a number of them who were requested to answer the following questions:

How many Indian children, school age, in your county?

Do they attend public schools with white children?

If so, how many attend schools; what grades do they reach; what kind of schools are they; name tribes, if possible; does the United States Government help your county by paying for Indian tuition; what is your candid opinion of Indian children as scholars?

If Indian children do not attend school, why? Is it really because of racial prejudice; is it because they are uncleanly; is it because white parents fear Indians may spread tuberculosis, or trachoma; is it because of difference in standards of morality?

How many Indians are there in your county and what is their general condition?

Please give your candid views on this query. Should the State of California take full care of the Indians in it or should the full responsibility be carried by the Federal Government or should State and Government cooperate in caring for the Indians who do not live on reservations?

Replies were received from a number. Following is a synopsis of the answers to the queries submitted and of observations made by the superintendents on the California Indian problem.

Ray Gord, superintendent of schools, Mendocino County:

"About two or three hundred children of school age in Mendocino County and about 70 attend school with white children. The Government pays tuition for them. They are not excellent scholars. They are slow to learn and lazy about their work. Seldom go beyond the sixth grade. Principally because their parents taken them out to work on leaving school and also because they are backward. They have not the interest in schools which white children have and this I think is due to their inheriting a sluggish mind and the low standards of education and immorality held before them. Most children in Mendocino County do either attend a public school or an Indian school. I should judge there are between 1,000 and 2,000 Indians in this county.

"I think that the Federal Government should have complete care and full control of the Indians and should provide all money to pay for their tuition. States that have Indian children like California can not take care of the education of their white children because of so many small schools which necessitates paying a great number of teachers, making the cost of education very large as compared with the population or value of the assessable property. All money for educating Indians should be provided by the Federal Government."

"Number of Indian children of school age in Siskiyou County unknown, but they attend public schools with white children. They reach the eighth grade, are very good scholars and many finish the elementary schools."

"The State and Government should cooperate in the education of Indian children."

Mrs. Pearle Rutherford, superintendent of schools, Butte County:

"About 75 children of school age in this county and they attend public schools with white children; are supposed to finish the eighth grade. They are below the average of white children as scholars and belong to the Digger Tribe. The Government pays tuition; as a rule the children can not grasp the work of the higher grades and lose interest; does not know the number of Indians in Butte County but considers their condition to be fair.

"The State and Government should cooperate in the education of Indian children."

John L. Dexter, superintendent of schools, Mariposa County:

"About 65 Indian children of school age in Mariposa County, and all attend public schools with white children; go as far as high school. As scholars they are usually slow; they belong to the Digger Tribe; the Government pays tuition in some cases. As a rule the Indians are poor scholars, but in some cases are bright; 225 Indians, full and mixed bloods, in Mariposa County. Their condition, in most cases, is not the best.

"The State and Federal Government should cooperate in the work of educating and caring for these Indians. The Government should provide an easy method for rural districts to secure some aid in educating children. It is im-

possible in some of the remote districts to have the three trustees go miles and miles to appear before a notary public to comply with all the requirements laid down by the Government."

G. P. Morgan, superintendent of schools, Tuolumne County:

"About 75 children of school age in Tuolumne County; some of them attend public schools with white children, possibly 25; they reach about the fifth grade; are fairly good scholars and belong to the Digger Tribe; the Government pays for tuition. Indian children do pretty good work; seem intelligent, but are slow and diffident; approximately 200 Indians in Tuolumne County; general condition fairly good; some have adopted many ways of the whites, have good homes and live well; others still live in shanties and are unclean. The children who do not attend school apparently do so for two reasons—some live too far from schoolhouses and some are indifferent.

"It seems to me that the Federal Government should assume the responsibility for the full care of Indians in California, but from another angle it would seem that State and Federal governments should divide the care and expense. It might be more equitable the latter way, as some States have very few Indians, and they could then contribute to the support of those States with large Indian populations. There is but one school district in Tuolumne County (Summersville district) that derives Federal aid for the Indians. These are supposed to live on the reservation near by."

Mrs. Nettie B. Harris, superintendent of schools, Modoc County:

"About 10 Indian children attend the public schools with white children; they make fair progress, but are not as good as a normal white child; usually reach the fourth or fifth grade; they are Pit River Indians; in some cases the Government pays 15 cents a day tuition; Indian children are obedient and studious; the principal objection to Indian children attending white schools is trachoma and uncleanness; some are very clean; some have symptoms of tuberculosis; some racial prejudice can be found in some sections.

"It seems to me the State and Government should cooperate in the care of the Indians."

Craig Cunningham, superintendent of schools, Madera County:

"Approximately 100 Indian children of school age in Madera County; approximately 75 attend Madera County schools, reaching the third, fourth, and fifth grades as a rule, though there are exceptions where they reach the sixth and seventh grades and one or two cases graduated from the grammar schools; these are Digger and Chickchansie Indians; the Federal Government has given substantial help in the way of tuition.

"As far as the schools of this country are concerned I believe that they add materially to the better living and enjoyment of life to the Indians. I have a few cases where trustees of school districts are part Indian blood. In my county there seems to be no prejudice against Indian children attending school. On the contrary my school boards in the mountain districts have encouraged them to attend. I could make only a guess at the Indian population in my county, it is probably 200. I think their general condition good. Most of the Indians secure employment in the vineyards in the valley in summer months. In most all cases they purchase winter supplies from moneys earned.

"I believe that the Federal Government should always bear a part of the responsibility for caring for and educating the Indians. I am heartily in accord where the Federal Government aids in giving tuition to Indians in the California public schools. Under the present plan the State and Nation are doing their part. I have encouraged my districts where Indian children are enrolled to enter into contracts with the Federal Government. Many districts have done so and material assistance has been received from the Indian Department. I want to express my appreciation for this aid as it has meant a great deal to my mountain schools."

Lucy M. Young, superintendent of schools, Trinity County:

"About 110 children of school age in Trinity County and about 95 attend public schools; most of them reach the eighth grade and are average scholars; they are Wintoon Indians; one school district is aided by the Government, paying tuition charges for four children; Indian children are average in scholarship, but not quite as ambitious and, generally, do not have the means to attend as regularly as the white children.

"The reason some Indian children do not attend school as a rule is because they live too far from school, and some of them must work and help support the family; nonattendance at schools is not on account of racial prejudice.

disease, nor morality. There are about 250 Indians in Trinity County and all are comfortable, but none have more than a living excepting a few. I think the State and Government should cooperate in caring for the Indians who do not live on reservations."

Mrs. Eugenia M. Burns, superintendent of schools, Alpine County:

"There are about 25 Indian children of school age in Alpine County, and 20 attended school during the term 1918-19. They reach the fourth grade; scholarship is fair; Government pays Indian tuition; Indian children will be fairly good scholars in the future if proper interest is taken in them; the Indian children in this county are told they must either attend public schools or be sent to United States Government Indian school at Carson; they prefer to stay home, so start to the public school, but do not attend regularly; the white parents do not care to have the Indians attend school with their children because of the frequent cases of tuberculosis among them and their uncleanness; there are about 75 Indians in the county, but there are possibly 300 Indians in the community just across the State line in Nevada.

"I think the State and United States Governments should cooperate in caring for the Indians who do not live on reservations. I have lived in this community for 20 years and have noticed an improvement in the Indians in as much as they are getting more anxious to take up the customs of the whites. The young Indians are losing the superstitions and customs of their fathers; so, for this reason, it will be an easier matter to educate them in the future. The question of tuberculosis and other diseases among them is very serious, and steps should be taken immediately by the Government to help eradicate them. I desire to call particular attention to the fact that the Indians of the Washoe Tribe need assistance to help eradicate tuberculosis.

"The farmers in this community depend almost entirely upon Indian labor for the farms. However, there is scarcely an Indian family of the tribe in which there has not been a death from tuberculosis in the last few years. So the disease not only spreads among them, but endangers the whites also. I would recommend that a village for Indians (such as the one to be started in Elko County, in Nevada) be established for the Washoe Indians in Alpine County in California, or just across the line in Douglas County, Nev., in which they could live in the wintertime. In the summer the Indians here sell their baskets at the mountain lakes or work on the farms; but in the winter they crowd into their insanitary huts and contract the diseases that are causing many deaths each year."

M. M. Gregory, superintendent of schools, Mono County:

"Part of the Indian children, number not given, attend public schools with white children, probably 30 of them; some are graduated from the elementary schools: as a usual thing Indian children are quiet, obedient pupils and are apt in any study not requiring much abstract reasoning. The Government helps the county by paying for Indian tuition.

"In reply to your inquiry, What is your candid opinion of Indian children as scholars? I fear I do not quite grasp the question. If you mean scholars as being able to profit by education I might refer you to Charles Light, Stockton, Calif., district attorney of San Joaquin County, who is a full-blood Indian of one of our mountain tribes. My opinion is that these children should receive an education to fit them for a place in the life of the age in which they live, as any other children should. The reason the Indian children do not attend school in this county is because of their indifference, lack of encouragement, some racial prejudice, more especially as we now have few pure blood Indians. Some are uncleanly.

"White parents do fear tuberculosis, trachoma, and social diseases. There is some prejudice because of the different moral standards, but perhaps more as a prevention of miscegenation. I can not estimate the number of Indians in this county. All have plenty of work, therefore food and clothing. They could be educated to manage much better. They gamble, and even in this dry country some manage to get drunk occasionally. Many are marrying Basques and Portuguese.

"My opinion is that Indians should be cared for by both State and Federal Governments—not as paupers, but as citizens, or, at least, as our other non-whites are. The Indian should receive the sort of education which would fit him to earn a living. His women should be protected from the lower class of the white race. They should be taught to care properly for their homes and their children."

QUESTIONNAIRE TO COUNTY HEALTH OFFICERS AND PHYSICIANS IN CALIFORNIA IN
REGARD TO NONRESERVATION INDIANS.

In an effort to learn the attitude of county officials in California toward the Indians of that State, a letter was sent to each of a number of county physicians and health officers, who were requested to answer the following questions:

Are Indians admitted to your county hospital, poorhouse, or other county institutions?

If not, is it because (a) of racial prejudice, (b) Indians are not taxpayers or (c) why?

What are the general health conditions among the Indians in your county (particularly as to tuberculosis and trachoma)?

How many Indians, exclusive of those on reservations, are in your county?

Is there any organized social effort being made in your community on behalf of Indians?

Please give your candid views of this query: Should the State of California take full care of the Indians in it or should the full responsibility be carried by the Federal Government, or should State and Government cooperate in caring for the Indians who do not live on reservations?

Replies were received from a number. Following is a synopsis of the answers to the queries submitted and of observations made by the officials on the California Indian problem:

Dr. C. A. Curl, county physician, Trinity County:

"Indians are admitted to Trinity County Hospital, poorhouse, and other county institutions; very little tuberculosis or trachoma among the Indians; about seventy-five nonreservation Indians in the county, many of whom are indigent from age. No organized social service efforts to help Indians.

"In my opinion the care of the Indians should be entirely Federal. The Federal Government has taken from the Indians the best of their lands and should care for them as long as they need help.

"In addition to the question I have answered, I would like to give my view on the Indian question. I served about five years as physician in the Indian Service and think that in that time I saw many of the injustices the Indians had to bear. Their best lands were taken from them and, in most instances, they were confined on reservations where they could have made but a poor living even if they were the best of workers. Being Indians and hereditarily disinclined to manual labor has made it doubly hard for them to get ahead in the world and have anything laid away for their old age, and now that they are old they must depend on the very small stipend allowed by the county. This county allows them \$5 a month when they are in an actual starving condition, and if they are thought to be dying the supervisors will send the county physician to see them. They would be admitted to the county hospital or poorhouse, but the whites do not like them and do not make it a pleasant place for them to stay.

"The question of the duty of the Federal Government is a large one and should take into consideration the psychology of the Indian as well as the expense to the taxpayer. We have taken from them most all they had as for several generations to come, it is surely our duty to care for such of them as are old and helpless. I wonder if you will pardon me if I make a suggestion that has been in my thought many times. Why not establish a home for the aged, sick, crippled and helpless Indians at some rather central point where the climate is not too severe and have all those needing the care of such a home sent to that place? Appoint an inspector to visit all places where there are Indians living at least once a year and gather in those who need to be sent to the institution and give them better food and living conditions than they have ever had in their lives and, in that way, pay to them a little of what they have taken from them.

"The younger Indians are glad to get rid of the old ones and during my service with the Government I have had the younger ones come to my aid and ask for poison to put the helpless ones out of the way. I know positively that many of the helpless ones are actually starved when food is a little scarce and sometimes when it is not. An old, sick Indian gets little if any care from his relatives. I know of one case in this county, last year, when an old man was allowed to die out in the rain because it was too much trouble for the others to go out after him.

"Surely our great Government can afford to do something really helpful. It can do but little good to have things done locally for if money, food or shelter is given them where they are living, the young and strong take from that which is given for their comfort.

"Pardon this long letter but the Indians have a lot of my sympathy and this is the first time I have had a chance to air my views, at least the first time I have had anything like an invitation to do so."

Dr. M. A. Craig, health officer, Lake County:

"Indians are admitted to the county hospital and other institutions; general health conditions are good; a small percentage have tuberculosis of the lungs, never knew of any to have trachoma; no organized social service efforts in behalf of Indians.

"Taking it from the broadest possible view probably the State and Government had better divide responsibility for the care of Indians. The California Indian question is a hard one to lay before you in a personal letter. What I may say on the subject is my view after talking the matter over with some of our county officials and reliable business men.

"From a broad point of view, remembering that the Federal Government has taken up their lands, it would seem that the Federal Government should take care of them, but considering it from an economic point and the quick dispatch of business it has proven too slow and expensive. The members of the Board of Indian Commissioners from the southern and eastern States are not familiar with our California and Pacific Coast Indian affairs much more than they are with our Japanese question, neither are the members from California familiar with such questions in the south so that, viewing it from that point, I believe the different States are better qualified to care for their own Indians.

"The field matron idea here in California for each county I think is a mistake from an economic point of view and without adequate results. Whether they are to be cared for by the State or Federal Government it appears to me that the appointment of a male Indian agent for each county, instead of the field matron, would be productive of better results, the male agent to act in conjunction with the county health officer, the superior judge, or the board of supervisors, and all bills to be subject to the approval of them and be paid by the State if they are to be cared for by the State.

"The Indian children here in Lake County are admitted into the common or public schools with the whites and have all the advantages of white children, but it is an exception for any of them to complete the course in school. They seldom continue with their schooling until they graduate. I am of the firm opinion that the Indians should not be educated beyond the common public schools at the expense of State or Federal Government for the good and sufficient reason that they are not mentally capable of a higher education. Some of our reservations have Indian schools, the teachers being paid by the Government; where they do not have schools they attend school with the white children. The Indians here are as healthy as the white population; some of them are afflicted with tuberculosis, pulmonary in nearly every instance, and, owing to their habits of living, they never recover. It is absolutely impossible to teach them the importance of hygienic conditions; contagious diseases are more fatal with them than the whites because they will not follow instructions and be properly treated.

"Those on the reservations especially do not make the best of what is provided for them by the Government. They are naturally indolent, and, to a certain extent, the more that is done for them the more indolent they are. The field matron helps them some to the extent of her ability and finances. In times of necessity our county board of supervisors make cash appropriations out of our county funds to help them in case of need and sickness, which I do not think is just toward our taxpayers. I think that should come direct from the State funds as above suggested to you. There is no need of an Indian living in want here if he is able to work. There is plenty of work for them of all kinds and wages are as good for them as is paid white labor, but the habit of our Indians is not to be constantly at work; they keep at it for a short time and then lay off to eat up and spend what they have made.

"To furnish a modern dwelling for each Indian family would certainly be a serious financial mistake. The Indians here in Lake County, Calif., who are on reservations have no just cause for complaint; they can get work at the same pay for any unskilled labor on the same basis as a white man. Labor is scarce and wages are good, and if they are short of the necessities of life it is their own indolent habits to blame for it. Still there are isolated cases where

they actually need help financially and be cared for otherwise, which they always receive by our supervisors.

"In our mountain counties we have a larger pro rata population of Indians than some other counties where there are large cities and towns, like, for instance, San Francisco and Sacramento, and for that reason I think it an injustice that they should be cared for by a county. It should be borne by the different individual States preferably, or by the Federal Government. I think it entirely unnecessary, in fact, will say it is a mistake, for the commissioners to deal differently with those not on the reservations than those that are on them.

"To abstract the above opinion, I would say from an economic point of view, quick dispatch of business and results and for the better service to the Indians who are certainly entitled to much care and attention from the State and Government that:

"Preferably let each State handle its own Indian question; they are better qualified to attend to them more economically, quicker, and secure better and more satisfactory results.

"Do away with the field matron and have an Indian agent for each county. he to be elected by county vote and not to be appointed by commissioners or board of supervisors; let him have an annual salary, hold office for four years, get away from graft, political pull, and get down to business for the benefit of the Indians and welfare of the taxpayer.

"Let those who will not live on reservations care for themselves except in rare exceptional cases. The county physician looks after them as at present in our county hospital.

"As for their education, the State is doing that at present.

"Under present methods the Indian question is entirely too expensive for the results obtained.

"Trusting the above will meet with your approval, and if there is any other point that I could enlighten you on the subject let me know."

Dr. Sherman T. White, superintendent Shasta County Hospital:

"Indians are admitted to county hospital and other institutions; tuberculosis is quite prevalent; trachoma not much; other health conditions as good as their white neighbors; about 1,100 to 1,500 nonreservation Indians in Shasta County; no organized social service efforts to help Indians. Both Federal Government and State should care for Indians.

"Shasta County has no Indian reservation and all live either on their own lands or rented places. We admit Indians to our county hospital the same as we do white people. In fact, if one is sick and has no visible means of support and has no place to go, we admit any person regardless of sex or color.

"The general health of our Indians is on a par with our white people, except tuberculosis is more prevalent among them than among whites. We have from 1,100 to 1,150 Indians in our county, and in my opinion both Federal Government and States should care for these Indians, and as soon as possible make citizens of them. To do this, I would advise that physicians be furnished by the Federal Government and that a field matron or matrons be furnished, instructing them in better ways of living with more sanitary surroundings than they have; show them in their own homes the way to live, to keep house, and to keep their health. In case of illness furnish them with nurse or nurses; physicians, and field matrons, plus their property interests, should be cared for by the Federal Government.

"The county should give them their education, grammar, and high schools; and in case any of them should be too sick to be cared for at home the county should admit such to the county hospital.

"It should be impressed upon the Indian that as soon as he is able and fit to care for himself he will be made a citizen of the United States of America. This education can be done in from 15 to 25 years with the Indians we have in our county. The nurses and field matrons should constantly and continually impress Indians that they will soon become citizens and that they must be honest and industrious; that they will soon be expected to care for themselves, and that the Government will not aid them any longer."

Dr. E. M. Fine, Del Norte County, physician:

"Indians are admitted to county hospital, poorhouse, and other county institutions; but county usually gives them an allowance and they stay elsewhere; tuberculosis is more prevalent among the Indians than others; trachoma is confined to Indians; no organized social service efforts in behalf of the Indians.

"I think the Federal Government best to take care of work among the Indians, but the Government is more familiar by past experience and could improve on past experience."

Dr. William L. Hood, Tuolumne County, physician:

"Indians are admitted to county hospital and other institutions; tuberculosis common; trachoma rare; there is some organized social service efforts being made in the community in behalf of the Indians."

"Neither the State nor Government should take full care of nonreservation Indians. If an Indian elects to live on the reservation, he is a ward of the Government. If he does not, he should take care of himself, as they do in Tuolumne County."

Dr. O. T. Schulze, health officer, Napa County:

"If Indians are residents of the county they are admitted to county hospital and other institutions; general health conditions are good; no organized social service efforts in behalf of the Indians."

"There is no Indian problem in this county. The few Indians are well and contented. I am, therefore, unable to offer any suggestions."

Dr. G. S. Scott, Maricopa County, physician:

"Indians are admitted to county hospital and other institutions; general health conditions are good."

"There are no more than 25 or 30 (excepting in Yosemite) pure-blood Indians in the county but many half breeds; there are no social service efforts being made in behalf of the Indians. State and county cooperation would guarantee to the Indians the best protection of his interest."

Dr. L. L. Thompson, Butte County health officer:

"Indians are admitted to county hospital and other institutions; tuberculosis and trachoma are almost unknown among the Indians here; organized social service efforts are being made for Indians in the vicinity of Chico."

"I believe State and Federal Government should share this burden on the taxpayers."

Dr. G. W. Desrosier, Colusa County, physician:

"Indians are admitted to county hospital and other institutions; general health conditions very good except tuberculosis is quite prevalent; no organized social service efforts are being made for the Indians."

"The Indians in this county work out on the farms. Those unable to work have been cared for by the county. If there is any change, I think the Federal Government would take better care of them."

Dr. O. A. Eckhardt, Sierra County, physician:

"Indians are admitted to county hospital and other institutions; general health conditions good; no cases of tuberculosis or trachoma have been reported to the county physician; about 25 Indians are working in the eastern part of the county (Sierra Valley) during the summer; most of them go to Reno, Nev., for the winter; no organized social service efforts are made in behalf of the Indians."

"The Federal Government should take care of the Indians."

Dr. S. H. Rantz, Eldorado County, physician:

"Indians are admitted to county hospital and other institutions; general health is fair; there are more or less tuberculosis and trachoma; no organized social service efforts in behalf of the Indians."

"I believe the Federal Government should take full responsibility for the care of the Indians."

Dr. B. J. Laswell, Plumas County, physician:

"Indians are admitted to county hospital and other institutions; tuberculosis and trachoma are quite common; no organized social service efforts in behalf of the Indians."

"California Indians should be cared for by both State and Government."

Dr. Ernest E. Thompson, Tehama County, physician:

"Indians are admitted to county hospital and other institutions; very little tuberculosis and trachoma; no organized social service efforts in behalf of the Indians."

"The State and Government should cooperate in the care of the Indians."

Dr. F. O. Pryor, Sonoma County, physician:

"Indians are admitted to county hospital and other institutions; has no intimate knowledge of health conditions but thinks there is considerable tuberculosis and little trachoma; there is no organized social service efforts made in behalf of the Indians."

Dr. J. L. Butin, Madera County, physician:

"Indians are admitted to county hospital and poorhouse; some Indians have land and personal property and pay taxes; some have tuberculosis; very little organized social service efforts are being made in behalf of Indians and no along lines to give best results.

"I believe the Government would get best results in the care of Indians. If properly dealt with, I am sure much improvement could be made."

Dr. W. J. Blevins, Yolo County, physician:

"Indians are admitted to county hospital and poorhouse; general health conditions are good; no organized social service efforts are being made to help the Indians.

"Our Indians are all able to work, and there is plenty of work for them. They earn good wages and do not need any assistance from the State or Government.

"If they had assistance from the State or Government, it would only encourage them to idle away their time. We are glad to have their service, and pay them for it, and the county will take care of anyone who is sick and without funds."

REPORT OF THE SPECIAL AGENT FOR CALIFORNIA INDIANS TO THE COMMISSIONER OF INDIAN AFFAIRS.

MARCH 21, 1906.

HON. COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

SIR: In the matter of the condition of the California Indians, I have the honor to report as follows: The act of Congress approved June 30, 1905, contained the following provision:

"That the Secretary of the Interior is hereby authorized to investigate, through an inspector or otherwise, existing conditions of the California Indians, and to report to Congress at the next session some plan to improve the same."

Pursuant to the said provision the undersigned was duly appointed to make the investigation. The letter of instructions was received on the 6th day of August, 1905. Two days later the actual work in the field began and has been prosecuted uninterrupted to the 8th of March.

The work necessary to secure complete and accurate data has proved to be much greater than was anticipated, and has required the services of your special agent practically day and night during the whole time. About December 25, 1905, your special agent received further instructions to investigate conditions pertaining to the southern California reservations, a duty which was duly performed. As there are marked differences in the situation there and in northern California, the northern and southern fields will be taken up separately in the order of official instructions.

Your special agent has visited and personally inspected almost every Indian settlement between the Oregon line and the Mexican border, and has used every effort to make his inquiry complete and exhaustive.

California has 57 counties, 50 of which have Indian settlements. It has required a little less than 12,000 miles' travel to visit these settlements, and as most of them are not near railroad lines, it proved impossible to hurry the inquiry beyond the speed of a horse.

The act of Congress which provides for this investigation requires a report at the present session. This allows less than three days per county, and some of the counties have hundreds of Indians. It is therefore to be regretted that time was not available to make a hut to hut canvass, as that seems the best way to insure complete accuracy.

Your special agent has made a family census of the Indians north of Tehachapi, which he believes to be as complete as possible under the circumstances. Working under a great pressure as to time and being of necessity dependent upon third persons in a large measure for information, it is not expected that every Indian in the State has been enumerated.

Your special agent finds an Indian population in California of a little more than 17,000, of which 5,200 are reported as living upon reservations. Thirty-five hundred of these are in southern California. There is thus a nonreservation population of about 11,800. Your special agent has examined their situation and can not see that their condition is such as to be a matter of satisfaction, either to the Government of the United States or to the people of California. The Indian population of California a century ago can not be stated accurately, as data for an accurate estimate are wanting. The census estimate of 1850 was

160,000. The estimates for 1800 vary all the way from 100,000 to 750,000. No well-informed person estimates less than 150,000.

Dr. Hart Merriam, of the Biological Survey, whose opportunities for examination have been exceptional, estimates 260,000. Every locality has its tale of hundreds of Indians 50 or even 80 years ago, where there is one now, and making due allowance for exaggeration, your special agent is inclined to believe Dr. Merriam's estimate well founded. A decrease in the Indian population of 94 per cent in a single century and mostly within 40 or 50 years, is certainly exceptional and would seem to be a fact in which we can neither take pride nor escape responsibility.

In order to understand the present state of affairs, it is therefore necessary to go somewhat briefly into the history of Indian matters in this State. California is a very attractive land to us to-day, and it was equally attractive to our aboriginal predecessors. The food supply was abundant and the population probably larger than all of the rest of the United States. There was also a conglomeration of Indian races. More than 200 more or less distinct dialects were spoken, classified by ethnologists into 22 or 23 distinct linguistic stocks, as distinct from each other as the Chippewas are from the Sioux, or the Iroquois from the Narragansetts. Two of these distinct stocks disappeared prior to the American occupation, and one other is now confined to Oregon. Representatives of all the remaining stocks survive to this day, as shown in the census schedule accompanying this report. The different stocks are almost without exception antagonistic and were formerly in a state of perpetual warfare. The California Indians were not very warlike, and their wars were very small affairs in comparison with those of the Indians of the plains. Indians speaking dialects of the same stock were usually friendly. Each California village was independent of all others, and there seem to have been but little idea of tribal organization.

The mission period began in 1769 and ended with the secularization of the missions by the Mexican Government in 1834. The region covered by the missions extended from the Mexican line to Santa Rosa, and from the Pacific Ocean to the San Joaquin Valley. The completion of the great work done by the Franciscan Fathers in civilizing the Indians was not allowed by the Mexican Government. The Indians had complained bitterly of their state of dependence, and yet when the dependence ceased they proved utterly unable to maintain themselves. Upon the spoliation of the missions, a scramble took place for lands, and a feeble attempt was made to reserve some land for the Indians, which proved ineffective.

In the year before the secularization, 1834, the mission records showed some 34,000 converts in the mission strip. There were probably some unconverted Indians termed gentiles. Only about 3,000 descendants of these mission Indians are alive to-day. Most of the decrease is understood to have taken place between 1834 and 1849. A few of the Indians who had come from the San Joaquin Valley returned there. In southern California those who were able to return to the mountains thus saved themselves from extinction, but the great body of the mission Indians undoubtedly perished where they had lived. Most of them died during the Mexican period, and not under that of the United States.

The treaty of Guadalupe Hidalgo, which ceded California to the United States, guaranteed Mexican land titles in the ceded territory as they stood at the time of the transfer. Under Spanish and Mexican law Indians had certain rights to the lands they occupied and could not legally be evicted from them. It would seem that this right was an interest in land and one entitled to protection under the provisions of the treaty of Guadalupe Hidalgo.

The act of Congress which provided for the settlement of the titles to Spanish and Mexican grants imposed upon the commission appointed to make the settlement the duty of first setting apart for Indian use all lands occupied by them. It may therefore be assumed that Congress considered that the Indians had substantial rights. It was the duty of the commission to investigate and confirm the Indian title wherever Indians occupied lands included within the limits of a Spanish or Mexican grant.

Your special agent has found but two cases out of several hundred grants where this was done, Pauma and Santa Ynez, and in the latter case the terms of the settlement were so uncertain that an action is now pending in the State courts in regard to it. The new owners of the Spanish grants had to rely upon the Spanish law to sustain the validity of their titles, but were prompt to appeal to the American law to evict the Indians, something they could not

legally do under the terms of their grants. It is needless to say that the Indians were evicted, the most recent instance being Warner's Ranch.

Four-fifths of the California Indians, however, were not affected by Span'sh grants, nor did they come under Spanish or Mexican influence, and their undoing began with the great gold excitement of 1849. When the United States came into full legal ownership of California in 1848, the Spanish or Mexican laws relating to Indians were not adopted, as has been erroneously stated. The policy of the United States adopted toward its new Indian wards in all the ceded territory was exactly the same as everywhere else. The Indian ideas of land ownership are radically different from ours. Our Government has never acknowledged that the Indians owned their lands in fee simple, and in view of the Indian idea of land ownership, this is correct. But the United States has always recognized, and the Supreme Court has held that the Indians have a right to occupy the land, which right is termed the Indian right of occupancy, a right which can be canceled only by mutual agreement. All Indian lands in the United States, except in a portion of California, have been acquired by the Government of the United States, and acquired only by payment therefor. Even the lands ceded by the Sioux after the great outbreak were paid for. The Indian right of occupancy was in the beginning recognized in California. The Government sent out a commission which made treaties with nearly all the Indian tribes in the State. Sixteen treaties were negotiated in northern California and two in southern California. These treaties were all very similar in text. The Indians agreed to cede their lands to the United States and to keep the peace, and to accept certain reservations described by metes and bounds in the treaties. The Government agreed to reserve forever for Indian use the lands described in the treaties, and to pay a certain specified price, payable in a great variety of things, such as provisions, live stock, and miscellaneous goods. The value of the goods thus promised the Indians in northern California was about \$1,500,000, and the land reserved was about 5,500,000 acres, worth at the Government price of \$1.25 per acre, about \$7,000,000. In southern California the goods promised were worth about \$300,000, and about 2,000,000 acres of land was reserved, worth, at \$1.25 per acre, about \$2,500,000. Some of these reservations were laid out in the mining districts and were strongly opposed by the miners. At that time, in 1851, Indian treaties were submitted to the Senate for ratification. As California had gathered men of influence from all over the land, the miners' protest carried such weight that the Senate rejected not only those treaties that affected the mining districts, but all the treaties. No effort seems ever to have been made to make new treaties, or in any way to acquire the Indian title from that day to this, nor have the California Indians ever received one cent for their rights in the lands which they have lost.

The Osages, Cherokees, and other eastern tribes have received millions for precisely the same rights in land, not nearly so valuable, and no reason has been advanced why the California Indians alone of all the Indians of America should receive no compensation for their lands, except that as Spain did not acknowledge the land rights of any Indians who had not accepted the sovereignty of the King of Spain, and as we have come into the Spanish title through Mexico, therefore the United States is not bound to acknowledge the land rights, though why the Indians should be bound by the laws of Spain now, when they never were during the period of Spanish dominion, is inexplicable to your special agent. The United States has, however, already acknowledged the Indian right of occupancy of nine-tenths of the Indians of the territory ceded by Mexico, and the Supreme Court seems to have settled the status for all the Indians in the said territory in the Pueblo cases. Moreover, the laws of Spain as to Indian land rights in the territory acquired via Mexico were precisely the same as in the territory of Louisiana in the lands acquired from Spain via France. The laws of France as to Indian lands in America did not differ essentially from those of Spain, or for that matter of England, though the English colonists early discovered the practical advantages of buying the Indian rights. Just why this comparatively small band of Indians in California should be selected as the only one in the United States to be deprived of their land rights is still unexplained. The Indians did not understand the intricacies of our Governmental system, or the meaning of senatorial ratification of a treaty. The Indians certainly understood that they had made a solemn agreement with the United States; and that they had sold their lands for a price. The Government has taken their lands and their reservations and paid nothing, and

from an Indian standpoint this constitutes a deliberate breach of faith without palliation or excuse.

The consequences of this violation of faith have been disastrous to the Indians. The reservation system of today is an evil which we trust will be eliminated in time, but which has the merit of protecting the Indians from the first fierce on-rush of a frontier population. Deprived of such protection in California, the Indians were at a serious disadvantage, greatly increased by the fact that there was no legal way in which an Indian could acquire title to the land he occupied. For nearly 40 years after the American conquest of California, that is from 1846 to 1884, an Indian could not acquire land under the Federal land laws. He was not a citizen and therefore could not take up land. He was not an alien and therefore he could not be naturalized and become a citizen. Hence the settlers had what might be termed a "cinch" on the Indian, and by the time the Indian allotment act was passed in 1887, there was no land left to allot, except in the extreme northern and eastern parts of the State. Something concerning Indian allotments will be said hereafter in this report.

In 1849, the great gold rush began. Within a year or two a considerable portion of the State was overrun by probably 200,000 miners. They were mostly men of the strongest and most vigorous type, well armed and masterful. A majority of them had inherited the prejudices and the stories of 200 years of border warfare with the Indians. A large number of the Argonauts had come overland and had had desperate conflicts with the warlike Indians of the plains. They were, therefore, in no mood to acknowledge that Indians had any rights whatever, and as a rule acted consistently upon this theory. Opposed to the miners was a practically defenseless people (they had no fire-arms), and the entire Indian population of the mining regions could not have mustered 30,000 warriors. Under the circumstances, it is not strange that one of the most shameful chapters of American history ensued. Among the Argonauts there were some desperate characters, who were as willing to commit an outrage upon an Indian as upon any one else. The Indians would retaliate in the aboriginal fashion by killing the first white man they met. Then followed swift and sure retribution. The miners would organize and the offending village would be "wiped out." Sometimes, especially east of the Sierras, conflict would arise from attacks upon caravans. The most frequent cause of these conflicts was the accusation that the Indians had stolen stock.

The accusation was not always proved, but the nearest band of Indians usually suffered for it. Sometimes the charge was well founded and the Indians had made away with the stock. The Indians had no conception of private ownership of domestic animals or of private ownership of food and did not realize at first that different rules prevailed among the whites. In time the Indians learned to let the white man's effects alone, and the miners began to understand the comparatively harmless character of the California Indian.

The modus operandi of these affairs was very much the same. The Indian camp would be surrounded and rushed, usually at dawn, and men in ambush would shoot every Indian that appeared.

At first few were spared, but as no one wished to kill the children, they were usually sold into slavery. Quite a number of raids are reported, especially into the coast range, their sole object, it seems, having been to secure slaves. Some Indians are reported to have been so held even after the legal extinction of slavery in the United States. More than 100 of these affairs between whites and Indians have been reported, and there is scarcely a locality from Yuma to Yontocket that has not its story of an Indian "battle." If all the stories told could be believed, they would indicate that more than 15,000 Indians were killed in these affairs, but the suspicion is strong that the white participants in telling the tale afterwards may have exaggerated the number of Indians involved as they did the dangerous character of the clubs and bows and arrows which constituted about the only weapons the Indians at that time possessed.

This state of affairs was not wholly unknown to the National Government. At first there were Government agents who made due reports to headquarters, and one of them issued a strong appeal to the people of California, but the agents were soon legislated out of office, and thereafter the Federal Government had little knowledge of the California Indians. The State Government also disclaimed any responsibility for them. An Indian could not sue in the State courts and his evidence was not admissible in a court of justice until 1872. As might be expected the Indian spirit was soon crushed, and no Indian now dreams of attempting to protect his own rights in any way. There are no legal dis-

criminations to-day against the Indians in California, but the temper of white juries in many counties is such that an Indian can seldom obtain justice.

One noticeable effect of the white settlement of California has been the introduction of many diseases theretofore unknown to Indians, and from the effects of which they are not free to this day. Smallpox has been very destructive to them in the past, and tuberculosis is prevalent among them now. Thousands of Indians have died of all sorts of these imported diseases, and the sanitary and other conditions under which Indians live, and which will be referred to hereafter, are such that death usually follows closely upon the attack of disease.

Another feature of civilization unknown among Indians prior to their acquaintance with the white race is the use of intoxicating liquors, and as the thirst for liquor seems innate among Indians the problem of handling the liquor traffic among them is difficult.

The State of California has an excellent law against selling liquor to Indians, which law is enforced in some counties and disregarded in others. It is to be regretted that the recent decision of the Supreme Court of the United States has removed practically all the Indians in northern California from the scope of the Federal laws. A large increase in open liquor selling is noticed, and the remnants of some bands seem to be trying to drink themselves to death before the law is changed. It is a pleasure to find that a majority of the California Indians are sober. The Indians who are addicted to liquor are apt to hang around the towns, and thus fill a much larger place in the public eye than the sober Indians who usually stay at home and are seldom seen. If a recommendation upon this subject is allowable, your special agent would earnestly recommend that the act be amended so as to meet the suggestions raised by the Supreme Court. It may also be feasible to provide for the summary cancellation of the Federal liquor license when the holder thereof shall be convicted of the offense of selling liquor to Indians, in any court of United States, or of any State or Territory. It is not expected that this would put an end to illicit liquor selling, but it would tend to throw the traffic out of the hands of the saloon-keepers who have friends on juries and political influence, into the hands of go-betweens who are not usually so circumstanced. It is but fair to say that a majority of the California saloon-keepers obey the law, but there are usually one or two in each locality who are willing to take the risk.

But neither the open slaughter of the California Indians in the period of "war" nor the ravages of disease, nor the effects of drunkenness, considerable as they all are, can explain the tremendous decrease of 94 per cent in the number of California Indians in but a little over one generation. We are so familiar with the idea that the Indian race is fading away before our own that inquiry is seldom made into the details of the process by which we fade them. In the case of the California Indians, the most potent factor has been, in the opinion of your special agent, the gradual and sure aggression on the part of the whites, the progressive absorption of the Indian's every means of existence. Perhaps this requires some explanation. In aboriginal days the California Indians were more nearly sedentary than any other Indians of the United States, other than the Pueblo Indians. Each tribe was restricted within narrow limits. Usually each band had a strip of territory reaching from the mountain tops down to some fish-bearing stream or the ocean, and they seldom or never went beyond these limits. Game was abundant but did not hold a very great part in their bill of fare, as they had no firearms, and were restricted to what they could kill by means of bows and arrows and pitfalls. Fish formed a much greater share of their diet, and all the California tribes were large fish eaters. Hardly a band was without its source of fish supply. The Indians also made a large use of edible roots. Grass seeds and larvae and pupae of some insects, and also grasshoppers were often on the bill of fare, and ant worms were resorted to in times of scarcity, as they are occasionally to-day. The largest single item in their menu was composed of acorns and other nuts. The Indians grind the acorns, leach out the bitter principle, and make various forms of mush and bread, both nutritious and palatable. These sources of food supply may be averaged about as follows: Acorns and other nuts 35 per cent, fish 25 per cent, game 15 per cent, roots, etc., 20 per cent; and grass seed and miscellaneous 5 per cent. Of course the proportions vary in different parts of the State, and the figures given are only approximate.

The first effect of the occupation of the land by the miners was the muddying of the streams by the mining operations and the killing or frightening away of the game, thus cutting off the Indians' fish and game supply. The mining population soon needed gardens, and about the only land suitable was

that where the edible roots grew. The stock industry followed very soon, and even the oak trees were fenced in and forbidden to the Indians, as the acorns were needed for hogs. Later the area of wheat came and arable lands passed into private ownership. The Indians were thus reduced from a state of comparative comfort to one of destitution. Very few white families would not feel the pinch of poverty if they lost one-half or three-quarters of their subsistence, and it is not strange that the Indians suffered. This absorption of the Indian's means of making his living did not take place simultaneously all over the State, but everywhere there was the same steady, sure occupation by whites of everything that will yield a living to a human being. It is not to be expected that a savage people could at once adapt themselves to such changed conditions, or that they should at once see the necessity or reason for any change at all. There was little or nothing available to take the place of what the Indians had lost. Very few people in those days wanted Indian labor on any terms, and there was very little work to be done at that time which an Indian fresh from barbarism was competent to do. Generally speaking, the California Indians have been not far from the line of destitution ever since, and few have been able to rise above their environment.

All this could not have occurred had the promises made by the Government in the rejected treaties been given effect in any form, however modified. Why the Government never made any further attempt to require the Indian right of occupancy has not been stated. It is suspected that interested parties had more influence at Washington than the Indians did. The Indian Bureau did, it is true, attempt for a time to protect the Indians and several small reservations were set aside by Executive order. Some of these were decided to be within the limits of Spanish grants and thus not available for reservations. Others were occupied by settlers who had political influence enough to have the reservations canceled. One or two were abolished by act of Congress, apparently because they contained timber which was desired by some lumber concerns. Only four reservations in northern California were finally saved to the Indians. The Hupa Reservation and the Klamath strip became Indian land as a result of an expensive Indian war brought on by encroachments on their lands. The Round Valley Reserve was confirmed to the Indians as a result of similar trouble hardly important enough to be called a war. These two reservations have a total population of about 1,550 Indians. The Tule River Reserve and the reserve near Jackson, formed subsequently, have about 170 Indians. The rest of the northern California Indians who have kept the peace and killed nobody have received nothing but writs of eviction.

At first, and before the country was thickly settled, if a landowner objected to the presence of Indians, they could move to some adjacent tract, but very soon the land in the greater part of the State was practically all taken up. Then as the lands became more valuable there was less tolerance of Indian occupancy. Had it been possible for Indians to take up Government land, much misery would have been saved them. In many instances the Indian arranged with some white friend to take up the land, upon the promise that the Indian should remain there as long as he desired. This promise was usually kept by the white man as long as he lived. When he died his successors were very apt to evict the Indian. Some of the evictions were from Spanish grants, and some distressing occurrences of this kind in southern California attracted the attention of Helen Hunt Jackson and others, and as a result of their agitation reservations were assigned to the Indians of southern California. Since that time the situation in southern California and the problems arising there have been different from those arising in northern California, and will be discussed hereafter in this report.

At first the Indians occupied pretty fair land and had usually neat little gardens and orchards, especially of peach trees. These tidy little places would attract the attention of some frontiersman who would then file on the place and summarily kick the Indian out. Several hundreds of these cases have been reported. One man still in middle life has been evicted seven times in this manner. It is not strange that the northern California Indians have ceased, to try to have gardens, when any appearance of thrift is warrant for their ejection from the premises. Indeed, most of them at the present time are living on land where, for lack of water or worthlessness of the soil, gardens are impossible. Most of the Indians have now been crowded out of anything like good soil and are found in waste places not having value enough to attract anyone else. It is now a matter of difficulty for an evicted Indian to find any place of refuge, except in other Indian settlements already overcrowded.

The Indian allotment act did not come in time to be of much use to the greater number of California Indians, though its value has been great in the northern and eastern parts of the State, notwithstanding some defects in the application. There have been issued in California 2,058 Indian allotments, of which 261 have been canceled for one cause or another, leaving 1,797 now valid and outstanding. Of these 1,797 allotments now outstanding, 1,439 are in the counties of Modoc, Lassen, Plumas, Shasta, and Siskiyou in the northeastern corner of the State, leaving but 358 for the rest of the State. Every allotting agent sent out by the department seems to have visited this corner of the State and hardly any other. Two or three visited Humboldt County, and one is reported in the southern Sierras, but almost their entire attention seems to have been concentrated on this one section of the State.

The allotting agents first sent out were from the East, and to them California conditions were an insolvable enigma. Some seem to have come expecting a soft snap. When it became evident that allotting the lands to Indians required arduous labor in the mountains in all sorts of weather (there is a suspicion that some of them did not know how to run a section line), they preferred the much easier plan of making the allotments from the map.

The Golden State is widely known as a land of fruit and flowers and mild climate. It does not seem to be well understood that a considerable portion of the State of California, larger than most Eastern States, has a severe winter climate with heavy snowfalls, and that there are also extensive deserts. The allotments referred to are in this portion of the State. Over 300 allotments are absolute desert, being sagebrush plains without water or the hope of water. Six hundred more allotments are located in the Sierra Nevada Mountains, where the land, or rather rocks, incline up at an angle 45 degrees or more, and the snowfalls often 30 or 40 feet deep and lies from October to June. It would seem that even a special agent from the Atlantic littoral ought to have known better than to allot either kind of land to anyone for a home, and yet that is just what was done. More than three-fourths of the allotments in that section are absolutely unfit for human habitation, and it is not strange that the Indians have been unable to do anything with them. The small number of allotments which are fit to live upon have been the salvation of the Indians there, and the distress, disease, and death which follows in the wake of eviction has been unknown among them. If the allotment act had nothing more to its credit than the saving of these Indians, its enactment would be justified. This, however, does not help those Indians who have received the worthless allotments. The present allotting agents in the field are competent, but they can not create land or undo the mistakes of their predecessors. The desert allotments have some scanty pasture and could probably be sold to sheep or goat men. Five acres of good land with water (land without water is worth very little), is worth more than an entire quarter section of desert land. I would recommend that the Government buy enough land with adequate water supply to give each family 5 acres of land and exchange these 5-acre tracts for the quarter-section allotments of desert land. This would require a nominal appropriation of from \$25,000 to \$30,000, but it would be only nominal, as the value of the land received in return at the Government price of \$1.25 per acre would probably exceed the value of the land purchased.

The mountain allotments referred to, some 600 in number, are in much the same situation as the desert allotments, except that most of them have more or less timber, and some of them very good timber, indeed. This fact has kept the Indian allottees in hot water most of the time. There is a constant succession of squabbles over the efforts of claim jumpers and timber syndicates to get hold of timber. All sorts of schemes have been devised, with as yet no very great success. The allotment act specifically provides that an Indian may select his allotment "upon any surveyed or unsurveyed lands of the United States not otherwise appropriated." Hence there seems little doubt but that the Indians are entitled to hold the land. If these allotments were fit for human habitation, your special agent would be inclined to stand by the Indians at all costs as against the timber speculators (who are usually eastern gentlemen with large experience in absorbing timberland) or their California agents, who sometimes seem to be selected for their supposed unfamiliarity with the Ten Commandments.

The time has gone by when either the desert allottees or the mountain allottees can secure other allotments from the public domain. Hence your special agent would recommend action in favor of the mountain allottees similar to that proposed for those on desert lands. The Government has held these lands

at \$2.50 per acre. Those with timber on are worth much more. The Government would be a large gainer in exchanging the allotments in question for the small allotments. Land can be had in the mountain valleys much cheaper than in most of California. It would also require a nominal appropriation of an amount which can not be stated exactly without further examination, though probably not to exceed \$40,000. Of the mountain allotments referred to, about one-third are within the limits of the forest reserves, and none of the others are more than 3 or 4 miles from the reserve boundaries. Most of these lie in the territory between the Diamond Mountain and the Plumas Forest Reserves, which should, apparently, be included in these reserves. There would therefore seem to be no good reason why all the allotments over which so much controversy has arisen should not be put into the forest reserves and the Indians given something in exchange which they can use, or at least live upon more than three months in the year.

There is a defect, apparently, in the allotment system as developed in California in that no provision seems to be made for protecting an allottee after he has received the allotment either in the use of the land itself or, what is more important, the water supply when there is one. As it stands now, anyone can jump an Indian's allotment, and there seems no practical remedy, or anyone can move the fence over onto the Indian's land, or divert his water, and it is not even a misdemeanor. Theoretically, the Indian can appeal to the State courts. Practically such remedy is illusory. The Indian would have to pay court and attorney fees, often jury fees, and would have to put up a bond for costs, all beyond the power of most Indians. The same is true of encroachments upon an Indian's water supply. Many cases have been reported to your special agent where white men have deliberately diverted a stream of water from the Indian with full knowledge of the Indian's priority of right, but secure in the knowledge that the Indian was helpless, and that the offense could be committed with impunity. The Indian could do nothing but watch his trees die and his garden dry up, and be forced to abandon his holding.

There is very little use in giving an Indian an allotment if anyone who is a little loose in morals can deprive him of the use of it. The Indian has no confidence in the white man's courts, and it must be confessed that in times past he has had little reason to have any. The title to the land in these allotments is still in the United States, and it is the United States that is technically the party interested. It therefore seems entirely within the province of the Federal Government to interfere and to see that its interests are not wantonly injured.

Your special agent would therefore recommend additional legislation for the protection of Indian allottees; that trespassing or encroaching upon an Indian allotment be made a misdemeanor; and that it shall be made the duty of the United States attorney for the district to appear whenever the boundaries, title, or possession of the land or water appertaining to an Indian allotment is in question.

Very few Indians have been able to rise above the distressing conditions they live under and to acquire land by purchase. Still there are a number of Indian communities owning land in common. Indianola, Humboldt County, Upper Lake, Lake County, Potter Valley, Coyote Valley, Pinoleville, Gudiville, Carroll, in Mendocino County, are all inhabited by Indians who own their own land, though it was purchased by white friends in most cases. The conditions in these settlements are far from satisfactory. They are sadly overcrowded, and are becoming more so as the Indians evicted elsewhere join the communities. At Potter Valley 52 Indians are living upon 14 acres of land that would not support a single white family. At Coyote Valley 36 live upon 7 acres, and at Gudiville 59 live upon 5 acres. At Upper Lake they have 90 acres of land, of which but 25 is level enough to build a house on. The hill land is good grazing land, but the whole place would not be large enough for more than one white family. One hundred and seventy-seven Indians live there and there are more than 250 in the band. There are also three communities living upon land owned by religious or private associations; one near Chico owned by the Presbyterian Board of Missions; one near Kelseyville owned by the Roman Catholic Church; and one near Manchester owned by the northern California Indian Association. In these three settlements conditions are much better, as they are not so overcrowded, and there is some attention paid to the welfare of the Indians themselves.

An interesting experiment has been under way at Fort Independence, Inyo County, which seems to be giving much better satisfaction than the allotments under the general allotment act. The old military reservation at Fort Independence has been turned over to the Indian Bureau and has been allotted or rather apportioned among the Indians of that settlement. There are 20 tracts of from 2½ to 5 acres per family, and 43 families, or 122 souls, have homes on the tract. The land is of good quality and the water supply ample. The Indians are making good use of the land and the conditions among them seem excellent. In fact the experiment is so successful that your special agent suggests it for consideration as a model in the proposed relief of the northern California Indians.

There are also quite a number of Indians located within the boundaries of the forest reserves. According to the figures of your special agent, they number 1,181. They have, of course, no title to the land they occupy, and since the establishment of the forest reserves, it is uncertain whether the lands within the boundaries can legally be allotted to them. These bands have mostly been in their present location from time immemorial, and there seems to be no occasion for any action in respect to any of them. The Forest Reserve officials do not seem to object to the Indians, though some of them desire to extend their hold by means of leases or permits which it is proposed to have the Indians secure to entitle them to reside upon the reserve. This seems hardly necessary, and any rules or regulations for Indians alone are objectionable. There is no apparent reason why the Indians should be upon any different basis from other people, and any attempt to enforce arbitrary rules is sure to result in friction. Your special agent would therefore recommend that no action be taken in respect to Indians on the forest reserves until action seems more necessary than at present.

In the matter of schooling for their children, the Indians in California have not been much favored. For many years all Indian children were refused admission to public schools, and today, in a majority of school districts where Indians live, public sentiment is against their admission. About the only districts in which Indian children are welcome are those small ones which are likely to lapse if the Indians do not attend. It is impossible to give exact figures as to the number of Indian children attending the public schools, as the school registers do not distinguish them and only partial statistics could be obtained. As near as can be estimated, the number is about 500 out of a possible school population of 2,700. The laws of California in regard to school matters make no distinction as to race or color. The trouble has been in local public sentiment. All counties have for years drawn the full quota from the State School Fund for the education of nonreservation Indian children, but most of the counties have refused the Indian children admission to the schools, seemingly with no conception of the morals involved in drawing money from the State treasury for one purpose and using it for another. The method of school apportionment has, however, been changed recently, and hereafter no money can be drawn for Indian children unless they actually attend the district school. The National Government has to a limited extent entered the educational field and is now maintaining reservation boarding schools at Hupa and Round Valley, training schools at Greenville and Fort Bidwell, and day schools at Bishop, Big Pine, Independence, Ukiah, and Manchester. These have a capacity of about 560, and the attendance of nonreservation children has not exceeded 350. Private schools have about 50 more nonreservation children. There are thus at least 1,800 Indian children without opportunity of any schooling whatever.

In endeavoring to ascertain the present condition of the Indians of northern California, your special agent has availed himself of all information offered from any and every source, but he has preferred to rely chiefly upon his own investigations, and for that purpose has visited almost every Indian settlement in Northern California. He feels in a position to speak with some degree of assurance in regard to what he has seen. The most surprising feature of the situation is the absolute ignorance of 80 per cent of the inhabitants of California in regard to the Indians in their own neighborhoods. Very few persons really know much about Indians in their person, or in their circumstances, or in their manner of living. Those who are best informed are usually the storekeepers with whom the Indians trade, and whose information is usually accurate.

Your special agent finds considerable diversity in the Indian conditions in different localities, they being usually in better condition in the northern part

of the section, and worse off in the central valleys and along the southwest flanks of the Sierras. The Indians are for the most part settled in little villages called in California *rancherías*. These little settlements contain all the way from 20 souls up to 250, the usual size being about 50. A schedule or census accompanying this report gives the location of each such settlement and the name of each head of a family and the number dependent upon him. These Indian settlements are for the most part located upon waste or worthless land as near as possible to their ancestral home. These remnants of each stock or tribe or band occupy to-day almost exactly the same territory their ancestors did a century ago.

In the native religion of the Indians, a sort of shamanism, intercommunion with the spirits of the dead is one of the chief features. The Indians continually make offerings to the names of their deceased ancestors and friends, especially at the annual feast of the dead, and they expect to receive in return protection from all manner of spiritual and earthly terrors. The desire of the Indian to remain by the bones of his ancestors is therefore much more than a mere sentiment, and the feeling is still strong; even among those who have been Christians for a generation or so. An Indian will endure great extremities rather than abandon his locality, a trait that has not always been given proper weight in attempting to handle Indians.

The sanitary condition of the Indian *rancherías* is bad, but the feeling of helplessness and despair is worse. Most of the Indians seem to have lost all hope of escape from their present situation and have become familiar with the idea that they will all die off soon anyway. It is evident that if the Indian is to keep alive he must have some means of making his living. He must do so by his own labor, either for himself or for others. Most of the northern California Indians being landless, the opportunity to work for themselves is wanting, and they must of necessity work for others. If the supply of labor for Indians was sufficient in all localities and well distributed during the year, the problem would be light, but in many localities the labor is not to be had in sufficient amounts, and the Indians thus suffer great straits in endeavoring to keep alive.

Your special agent estimates that 1,700 families with nearly 6,000 souls are dangerously near the famine line. This does not mean that they are all suffering at the same time, or all times, or every year, but each of the landless bands is liable to suffer a time of famine, and during such a season the old people and children die. The healthy and able-bodied can survive a period of starvation, but in the weakened state caused by insufficient nutrition, almost any disease, even common colds, will carry off most of the children in the settlement. North of Tehachapi there are hardly any of the old people left, and the proportion of children is small, although births are numerous. The people of almost any locality who do not know the Indians well are apt to deny that their Indians ever suffer. Other Indians do, but theirs do not, and it is a striking fact that the less work there is for an Indian in a locality, the more firmly convinced his white neighbors are that he has all the work that any well-regulated Indian could desire. The storekeepers, however, generally know better, and quite a number have told me that in employing an Indian it was necessary to feed him up for two or three days before he was able to work satisfactorily; and that the Indian scale of living was so low that the Indians were often weak from lack of proper food. The Indian is not competent for all kinds of work and usually is restricted to the roughest labor. The need of industrial instruction is great, and the need of field matrons to teach ordinary household economy and common sanitation is even greater.

Your special agent will take pleasure in recommending 25 or 30 places as proper locations for industrial instructors or field matrons.

It can hardly be expected, however, that either can teach very much while the Indians are subject to eviction at any time or are being harrassed from place to place. It can hardly be claimed that the nonreservation Indians are advancing very much, or that any very effective steps are being taken to improve their condition or to teach them anything that an Indian must know if he is to take any part in our civilization. There are missions at Fall River, Chico, North Fork, Kelseyville, and Carroll. These with the Government work at the schools altogether do not reach 20 per cent of the nonreservation Indians. The reservation Indians are all fairly well cared for. Your special agent would therefore recommend an increase in the number of day schools in northern California, and especially an increase in the number of field matrons and industrial instructors. He

will, if desired, submit reports hereafter, specifying locations and giving more details than seem proper in this report.

The California Indian both north and south has a good reputation as a hard-working, trustworthy, honest laborer. His greatest defect is that he will sometimes leave his work without regard to the position in which it leaves his employer. In some localities the Indians have all the work they can do. In more localities a very curious race prejudice, different from that against Asiatics, militates against their employment. In other places there is very little work of any kind to be had, and the Indians often have to go 50 or 100 miles to work. Then he can work but a short time, picking fruit or hops. This is often all the work they get in the year, and how these bands live is a mystery to their neighbors.

In making the family census of the Indians of northern California, a very puzzling question was the status of the half-breeds or mixed bloods. The number recorded by the census is much fewer than had been expected. It has been found impossible to classify them strictly according to blood. With those half-breeds who are brought up, educated, and acknowledged by their white fathers, little trouble is experienced, but the majority of the mixed bloods never knew their white ancestors and have grown up in the Indian camps. They are more intensely Indian in sentiment than the Indian themselves. They consider themselves Indians, and it is difficult to deal with them upon any other basis. About two-thirds of the half-breed men marry full-blood Indian women and 20 per cent of the half-breed women marry Indian men who are full-bloods. Where the children are thus three-fourths Indian they are Indians to all intents and purposes, and are so recorded in the census. A considerable number of half-breeds intermarry among themselves. These form a class apart, not being recognized by whites and looked upon with suspicion by the Indians. The mere statement of mixed blood therefore does not indicate whether or not they are to be considered Indians, and a separate list has been made for mixed bloods, status undetermined. Just what ought to be done with them your special agent is not able to decide, as it will take a more minute examination of each individual case than he has had time to give. People of mixed blood more than half white are not usually enumerated at all.

The responsibility of the National Government for the present condition of the nonreservation Indians of California seems clear. Had the Government given these Indians the same treatment as it did other Indians in the United States their condition to-day would be very different. Those Indians of California who have received land, if not increasing in numbers, are at least not decreasing very fast. Most of the landed bands are about stationary in numbers. The entire Indian population of northern California has decreased as closely as your special agent can estimate by about 1,100 in the last three years, most of the decrease being in the landless bands.

It should be remembered that the Government still owes these people considerable sums of money, morally at least, but the Government owes more than money. No amount of money can repay these Indians for the years of misery, despair, and death which the governmental policy has inflicted upon them. No reason suggests itself to your special agent why these Indians should not be placed in the same situation as all other Indians in the United States; why they should not receive a minute portion of the lands which they have not as yet ceded to the United States. It seems clear to your special agent that the northern California Indians have not had a "square deal" and that it is not too late to do belated justice. The landless Indians can not be placed in status quo ante, but they can be given what is sometimes expressed as "a white man's chance." It ought to be possible to put an end to the periodical wiping out of the Indian children. It seems that we are under the necessity of civilizing the Indian whether we like the job or not, or whether the Indian wants to be civilized or not. We are therefore under obligation to make at least a decent effort to accomplish the task without injury to the Indian.

Your special agent is inclined to object strongly to anything in the nature of reservations for these people. The day has gone by in California when it is wise to herd the Indians away from civilization, or to subject them to the stunting influences of reservation life. Some of the past reservation experiences in California have been so harrowing that the Indians fear reservations above all things. Moreover, the expense of establishing reservations, and more especially of maintaining them, would be enormous. Reservations, therefore, seem out of the question. It should, however, be feasible and comparatively inexpensive to give these Indians allotments, and there would be no expense connected with the allotments after they are once made. It would however, be necessary to buy

a considerable amount of the land, as there is very little land in the public domain left to allot them. Almost everything relied upon for this purpose has been included in the forest reserves. The expense of buying land to allot these Indians is not so great as would appear at first sight. Your special agent is not in favor of giving them farms. They would be unable to use farms. Small tracts, not exceeding 10 or 15 acres, if the land is good land, will be ample, and in many places 5 acres per family, or less, will be sufficient. It is not necessary that the Indians should be made rich. All that is proposed is that they shall have mere footholds with fixity of tenure. This will not change their present status as laborers, but will give opportunity to teach them some of the common every-day lessons which they need so much. I would therefore recommend the appropriation of a sufficient sum for the purchase of land in the immediate localities where the Indians live, to be allotted or assigned to them in small tracts under such rules as the Secretary of the Interior may prescribe. It may take several years to complete the work. Hence it is not necessary that the entire appropriation shall be available the first year.

It seems to be the belief of many persons that there has existed in California a considerable body of "citizen" Indians. This is an illusion. Until allotment times there never were any citizen Indians in California. There are none now except of comparatively recent make. The Indians who were supposed to be citizen, or most of them, were so neither in law nor in fact, and were for all those years unable by reason of legal restrictions to appeal to the courts of either State or Nation. Their rights and their citizenship were denied by both State and Nation, and to speak of anyone in such position as a citizen is absurd.

There are now, however, some really citizen Indians in California. At the present time about 1,250 Indian men are, by virtue of the allotment act, entitled to vote, or would be if they could pass the educational qualifications imposed by the constitution of California. Comparatively few of them have ever voted, and those few are usually educated mixed-bloods. The 1,250 men may be said to represent an Indian population of about 4,000. These may be fairly considered citizens. It should be understood that for these citizen Indians no relief is asked and in the opinion of your special agent none is needed other than some readjustment of allotments mentioned heretofore in this report.

SOUTHERN CALIFORNIA.

Although the troubles of the Indians of southern California arise from the same initial wrong as those of the northern part of the State, yet, the Government has here attempted to repair the wrong, and has assigned more or less barren reservations to substantially all the Indians in the southern section of the State. This action came late, as usual, and there was very little land of any value remaining in the public domain which could be given to the Indians. The unsatisfactory conditions on some of the reservations arise from the character of the reservation, and therefore requires remedies different from those to be applied in northern California.

Your special agent has visited nearly all of the reservations in southern California, and has had a bird's-eye view of some of the others, and has made a careful investigation of the situation there. Those reservations which seem to require attention will be considered in order:

CAMPO.

Campo has occupied a considerable place in the public mind for the past 18 months by reason of reports current as to conditions there. It is to be regretted that the sensational press has exploited the matter in such shape as to give the idea that all Indians in southern California were in the last stages of starvation. The situation at Campo was bad enough without exaggeration. There is no question as to the extremity to which the Indians of the Campo Reservation were reduced. Your special agent has no doubt as to the fact that the Indians were in great straits, and that only the timely relief saved them, or most of them from death by starvation.

There are five reservations usually known as the Campo Reservations, as follows: Campo proper, area 240 acres, population 25, elevation about 2,500 feet; Manzanita, area 640 acres, population 59, elevation 3,000 feet; La Posta, area 239 acres, population 19, elevation about 3,200 feet; Cuyapipe, area 880 acres, population 44, elevation about 3,800 feet; and Laguna, area 320 acres,

population 5, elevation about 4,500 feet. The areas given are their areas on paper. Most of the land is the most barren description. The actual areas of arable lands are as follows: Campo, 40 acres; Manzanita, 35 acres; La Posta, 30 acres; Cuyapipe, 30 acres; Laguna, 70 acres.

There are about 20 of these Indians not living on any reservation. The rainfall is scanty, and grain and hay are about the only crops that can be raised without irrigation. There is no water for irrigation on any of the reservations, and barely enough water for household use. The entire five reservations would not support more than one or two white families, and yet 40 Indian families are expected to make their living there. The surrounding country for 50 miles in every direction is thinly settled, and is mostly a cattle country where there is very little work for Indians outside of the reservations.

Now, Indians require some means of making a living the same as anyone else. To place Indians upon a reservation where they can not make a living, either by working for themselves or for others, is to invite exactly what occurred at Campo, starvation. The immediate cause of the hard times at Campo was a succession of three or four bad years when crops failed.

Your special agent saw no evidences of present suffering at Campo. The relief extended by the people of southern California was timely and generous. Since the Government has taken charge of the situation there has been no occasion for suffering. Last year was a favorable one, and the present promises to be likewise, but so far no remedial steps have been taken to prevent a recurrence of the trouble which any bad year may bring forth.

In relieving the distress, the people of southern California have contributed two four-horse wagon loads of supplies, the value of which can not be less than \$2,000. There was also contributed in cash through the Sequoyah League, which also handled the contribution of foods, the sum of \$3,073, and through other persons \$333.17. The Government has itself spent \$748.80 in cash, a total of \$4,156.97 in cash, and at least \$2,000 in goods. This for 165 Indians. Starving our Indians seems to be quite expensive both for the Government and the surrounding people. The amount of cash alone spent in the last 18 months is the interest on \$83,219 at 5 per cent, and at the rates the Government pays, the principal would be much larger.

All humanitarian questions aside, it would seem to be cheaper as a business proposition to put these Indians in a position where they can earn their own living than to allow present conditions to continue and have a scandal of this kind every few years.

Your special agent estimates that a proper place can be secured in a neighborhood with a proper water supply, and would recommend an appropriation to provide more and better land for the Indians of the five Campo reservations. It is not expected that all the Indians will wish to remove from the old reservations, and I therefore recommend that the present reservations be retained and used in connection with the proposed new tracts.

The amount contributed by the people of southern California and by the United States seems a large one for the purpose and yet it is not quite as large as it appears at first sight. \$4,156.97 is only \$1.40 per month per head for the 18 months. A report has gained considerable currency in the public press that the Campo Indians are being supported in idleness and luxury. \$1.40 per month per head will not buy many luxuries for anyone, nor will it buy an undue quantity of necessities. The relief was not all doled out by the month to be sure, but was given in the nick of time when needed. Yet it is still evident that the Campo Indians, notwithstanding the considerable assistance received, have themselves, by their own labor, furnished the major portion of their subsistence.

PALA.

The new reservation at Pala is undoubtedly the best in southern California. There is a large area of good land and a fine water supply. Some 450 or 500 acres are now being irrigated. The land under the new ditch, about 400 acres, is subirrigated, well drained, free from alkali, and with the surface irrigation from the new ditch ought to be very productive. The situation is certainly much better than that formerly occupied by the Indians on Warner's ranch. It is not to be expected that the old people will ever be satisfied with any other place than Warner's ranch, but the able-bodied young men are finding the value of the new location. They probably would not be so willing to return to the old site, if it were possible. Your special agent has no desire

to criticise severely those Government officials at Pala who did the best they could in a time of great stress, yet, there are certain things in connection with the making of the Pala reservation that are valuable in showing what to avoid in trying to improve the situation at Campo and other places. There seems to have been a considerable waste of Government funds, and, as usual, no one is willing to shoulder the responsibility.

The new irrigation ditch has cost nearly \$18,000, or about \$45 per acre of land irrigated. It can not be used to irrigate any other land anywhere. The ditch is well built, with a proper grade and fine curves. About three-quarters of a mile of it is cemented. There are some criticisms that might be made as to money spent in a diverting dam of which very little is to be seen now and to other expenses necessitated by locating the upper end of the ditch parallel to the torrent. The capacity of the ditch is given as 1,700 inches of water, and the land to be irrigated about 400 acres. The duty of water under the San Diego Ditch & Flume Co., the largest irrigation enterprise in that part of San Diego County, is 1 to 6, that is, 67 inches of water would irrigate 400 acres of land. If we take the lower duty of 1 to 4, 100 inches of water would be sufficient. Or to put it another way, the ditch of 1,700 inches capacity would irrigate from 6,800 to 10,200 acres of land. These are minimum figures, however. It would be perfectly proper to make the ditch larger than necessary for the minimum amount of water. Four times the minimum or from 300 to 400 inches would have been ample as the capacity of the ditch.

Your special agent has in former years visited Pala in the summer time, and he has seen the amount of water in the San Luis Rey River at that point. He doubts very much if the said river ever carries one-fourth of the capacity of the ditch in question during the irrigation season. The commission which examined the various sites prior to the purchase of Pala, state in their official report to the Secretary of the Interior that they measured the San Luis Rey River at the point of diversion, and found a flow of 142 inches. Just why it should have been necessary to build the ditch a dozen times larger than there is land to irrigate, or water to irrigate with, is a query which an inspection of the premises does not enable one to answer. This big ditch contrasts strongly with the ditch recently completed on the Rincon reservation under the direction of the agent, planned to irrigate 200 acres of land, and which cost a little less than \$800.

The matter of houses for the Indians who removed from Warner's ranch to Pala was a vexed question of the times immediately after the removal. The suggestion was made that the Indians be at once set to work building adobe houses. This particular band had been making adobe, building adobe houses, and living in adobe houses for more than 100 years, and the adobe house was the one kind of house they knew all about. Adobe as a building material has some defects, but it also has some excellent qualities. It is suited to the climate, being warm in winter and cool in summer. It is wind proof, dust proof, and even when the roof was of thatch, the Indian houses were usually waterproof. But for some reason the adobe idea did not meet with favor. It was said to take too much time. This objection was also made against the project of buying rough lumber for the Indians to build into houses, and things were rather at a standstill until the brilliant idea was evolved of getting temporary houses for the Indians to live in permanently. The Indians were inclined to be mutinous and openly threatened to return to Warner's ranch. There was evident need for haste, so 50 portable houses were ordered by telegraph from New York. The order seems to have been filled in due course of business, and the delay in coming by freight, more than 4,000 miles, was no greater than usual with transcontinental freight, but as a time-saving device it was hardly a success. It was nearly six months before the Indians got into the houses. The expense was double what wooden cabins built on the spot would have been, and about four times the cost of adobes. There would be less room to cavil at this purchase if the houses were fairly adapted to the purpose for which they were bought. The houses are well enough constructed for the purpose for which they are advertised and sold, that is, for a temporary house or wooden tent. As a permanent dwelling place for human beings they are far from satisfactory. Being composed of but a single thickness of board three-quarters of an inch thick, they are hot in summer and cold in winter. The California sun has sprung the narrow strips composing the panels and made cracks in about every panel. The sun has also warped the roof panels and injured the tarred paper which constitute the rain-shedding part.

The houses are neither dust proof, wind proof, nor water-proof, and are far inferior to the despised adobes.

California has no winds comparable to the eastern cyclones, and yet not long ago a stiff breeze unroofed 14 houses and made kindling wood of another. Nearly every house in the settlement is more or less wracked and twisted.

In moving the Indians to Pala, one mistake was made which, though of small dimensions, is illustrative of a class. The Indians of Agua Caliente village speak a dialect of the Shoshonean stock. The little village at San Felipe, also evicted at the same time and moved to Pala, are of Yuman stock. Not a single word is alike in the two languages. Between these two diverse races of Indians there are generations of warfare and hatred, and though there has been no open war between them for a long time, a great deal of the old animosity still survives. The San Felipe removed to Pala number but 34, a mere handful, surrounded by an overwhelming number of their hereditary enemies, and among whom they are unwelcome. The San Felipe are outraged in their feelings, or possibly in their prejudices, and will never be satisfied at Pala. They have said little on the subject, for they have all of a child's helplessness of making anyone understand. The Government seems to learn very slowly that Indians are not all alike, and that different stocks or races of Indians ordinarily can not be put together. We may consider their ideas or antipathies to be childish, yet, if we wish to be successful in dealing with them we must necessarily take some account of the human characteristics of the Indian. I would therefore recommend that the San Felipe Indians be allowed to remove to Santa Ysabel, where most of their friends and relatives are. More than half have left Pala already.

PACHANGA.

The Pachanga reservation is one of the poorest in southern California. On paper it has 3,360 acres, which looks large. Actually, there is less than 300 acres that can be plowed, and this is so dry and sandy that the grain crop, about all that can be raised, is very scanty and often a failure. There is no water supply even for domestic purposes. At the Government school there is a well which furnishes some water for two or three months during the rainy season. The rest of the year all water has to be hauled from three to five miles, and at the school they have not even water enough to wash the children's faces. The contrast is strong between Pachanga and Pala with its good land, abundant supply of water for irrigation, and water for household purposes piped to each Indian house. There is a fine spring two or three miles up the canyon from Pachanga which can be brought down in pipes at an expense estimated by the agent as \$4,000. The land the spring is on is Government land, and that and the land between it and the reservation should be added to the reservation. The Pachanga Indians really ought to have some land that is good enough for gardens. The expense would not be great, probably less than \$5,000. I would therefore recommend the purchase of such land.

SAN PASCUAL.

The maps show an Indian reservation named San Pascual, but actually there is no such reservation. A reservation was selected for these Indians comprising certain descriptions of land in township 12 south, range 1 west, in San Diego County. By some inexcusable error, the land was actually reserved in township 11 south, range 1 west. None of the San Pascual Indians ever lived on the land actually reserved, as that was considered to be Shoshonian territory, and the San Pascual are Yuman. Both pieces of land are barren and of little value. The Indians actually occupied the land in township 12. In the years that have passed all the land in the intended reservation worth filing has been taken up by whites in the usual manner, it being open to settlement. The result is that the San Pascual Indians have no reservation, and all through errors not of their own making. I would, therefore, recommend an appropriation to buy a small tract of land for the San Pascual Indians.

LOS COYOTES.

Los Coyotes is a large reservation on paper, being nearly a township of land. It is quite elevated, being from 4,500 up to 8,000 feet. The reservation is nearly all barren mountain tops, and the agricultural land is confined to narrow strips

in the San Ysidro and San Ygnacio Canyons, about 275 acres. A large part of this is owned in all by a white man and was patented before the reservation was established. There are also two valleys or hollows in the mountains which have some feed for cattle, and are also patented land. The Indians say that the Government promised them to buy this patented land. Whether such a promise was made your special agent does not know. It is a fact that the Government did buy out one white homesteader in the San Ysidro Canyon. These Indians are the only ones I have found in California who are inclined to be belligerent. They have been frightened by the fate of their neighbors on Warner's ranch, and have determined to allow no white man on their reservation. They have occupied the patented lands and show a disposition to hold them by force. If the owners insist upon their rights, a small sized Indian war is likely to result. It seems to your special agent that the Indians' demand for this land is just. It was a rancharia site, and as such could not be filed upon without something closely approaching perjury. The patents are now issued, however, and the title has passed to parties who have acquired it in a legitimate manner—I believe upon a mortgage. I would, therefore, recommend an appropriation to buy this land.

SAN MANUEL.

This reservation of 640 acres is about the most absolutely worthless that I have seen anywhere in California, being steep, barren dry hills, and yet it immediately adjoins one of the most fertile pieces of land in southern California. The Indians should have a little land fit for gardens.

The little reservation of Pauma has the use of a fine stream of water from the Pauma Creek, but the stream is apt to be very scanty in summer, when it is mostly needed. Some means of conserving the supply is much needed. The reservoir site is so gravelly and sandy that cementing is necessary. The Indian have promised to do all the work if the Government will furnish the cement. I would recommend that they receive the cement.

CAHUILLA.

On the Cahuilla reservation a storage reservoir and irrigation system is about half completed. It is estimated that \$1,000 will complete it. Without the irrigation system the Indians can raise very little, as their reservation is mountainous and contains very little agricultural land, and that little needs water to produce anything.

MORONGO.

The Morongo reservation, near Banning, has quite an area of arable land, but the land is desert and without water will raise nothing. There is also a fair water supply if it were developed and brought to the land. The water comes from two cienegas, or spring spots, the sources of which are upon the reservation. But one of these cienegas is at present used. It is likely the flow from these cienegas could be increased. The water brought from this, the upper one, has sufficient fall to pump water from the lower cienega into the ditch for irrigation. The water supply could thus be largely increased and the area of land cultivated, it is believed, could be more than doubled. I recommend an appropriation for this improvement.

DESERT RESERVATIONS.

On the Colorado Desert are several small reservations known as Torres, Martinez, Alamo Bonito, San Augustine, Agua Dulce, 29 Palms, and Cabazon, the latter being near Indio.

On two or three of these reservations artesian wells have been bored by the Government, the water from which is used by the Indians for irrigation. They make good use of the water. I would recommend the boring of more wells. The cost is from \$300 to \$500 per well, and the benefit is great. With the water the Indians are self-sustaining, and without it they are perpetually menaced by famine. I recommend an appropriation for this purpose.

At the Palms Springs reservation, sometimes called Agua Caliente No. 2, there is a small stream of water, the right to which is claimed by outside parties. It would seem that the Indian rights are prior and should be supported. If the

white contestants are willing to sell for a reasonable price, it would probably be cheaper to buy them out. I would recommend an appropriation to determine the water rights or buy out the contestants, as may be found the more advisable.

RINCON.

The Rincon reservation, 14 miles from Pala, has 400 or 500 acres of arable land, more than there is water to irrigate. A ditch has recently been constructed taking its water from the San Luis Rey River and expected to irrigate about 200 acres. A syndicate is making preparations to build a large dam across the San Luis Rey River a few miles above the Rincon for a storage reservoir and power plant. Steps should be taken to protect the Indian rights to their water. It is believed that if the matter is attended to now the matter can be amicably arranged without in any manner embarrassing the great enterprise.

BOUNDARIES.

One of the most troublesome questions in regard to southern California reservations arises from the looseness with which the reservation boundaries are laid down. From every reservation comes a complaint as to the boundaries and of encroachments upon the boundaries of Indian reservations. One reservation line is said to have been moved in over 1,100 feet. Another is said to have been moved over onto the reservation three separate times. It seems as if each successive owner of land adjoining a reservation is unable to resist the temptation to grab a little Indian land, and they seem able to work this kind of a graft with impunity. The farcical character of some of the California surveys plays directly into the hand of this class of land-grabbers. If a man steals \$50 it is a penal offense. If he steals \$5,000 worth of Indian land he gets the land as a reward for his nerve. Encroachments upon Indian lands are likely to continue until it is made a penal offense for anyone to establish the boundary line of an Indian reservation except in conjunction with a duly appointed officer of the Government. There is one thing which, in the opinion of your special agent, should be done, and at once; a commission of competent surveyors should establish the boundaries of every California reservation, and mark the boundaries so as to endure for all time. Fence them if necessary. Your special agent would earnestly recommend an appropriation to determine and mark the various reservation boundaries.

Two reservations, Inyaha and the Conejos division of Capitan Grande, should, in the opinion of your special agent, be enlarged by the addition of certain adjoining tracts of Government land. This is advisable chiefly to protect their water rights. The little reservation called Cosmit I found fenced in and used as part of a cattle ranch. There is said to be a deed extant from a senile old man belonging to the tribe, purporting to convey the property to a white man. The deed is worthless, of course, but such attempted transfers are met with in various places in California. The Indians do not care to live on the Cosmit reservation, as the village of Cosmit was, by one of the usual mistakes, not located upon the description set aside as the reservation. The Cosmit Indians can be taken care of on the Inyaha reservation.

The Indians on the remaining reservation in southern California are in fair condition. At least no facts were observed which require special attention in this report. No other southern California Indians have been shown to your special agent as having been in as bad a state as those at Campo, but several other bands must have been very close to the line as a result of the bad years. The present year is a favorable one, and no Indians are reported to be destitute, other than a few old people who are without relatives to support them and for whose support the Government makes a small contribution.

The plan of relief for the Indians of California which your special agent ventures to recommend is briefly:

SOUTHERN CALIFORNIA.

That those Indians who have been placed by the Government in such position that they can not earn their own living shall receive such pecuniary aid as to put them in shape so that they can do so; that this aid take the form of land of good quality with ample water supply, the same to be held

in the same manner as their present lands; that this land shall be purchased by a commission appointed by the Honorable Secretary of the Interior, and a majority of which shall be experienced in southern California land conditions; and that provision be made to extend the irrigation facilities of the reservations mentioned in the body of this report.

NORTHERN CALIFORNIA.

That those Indians who are landless through past acts of omissions of the National Government, shall receive land in lieu of any claims they may have against the Government, moral or otherwise; that the land shall be of good quality with proper water supply, and shall be located in the neighborhoods in which the Indians wish to live; that this land shall be given under some such plan as that pursued at Fort Independence, each family being assigned not exceeding 10 acres of land, or such smaller tract as the conditions may warrant; and that this land be purchased and assigned by a commission appointed by the honorable Secretary of the Interior, a majority of whom are expert in northern California land conditions.

That those Indians who have received worthless desert allotments shall have the privilege of exchanging them for allotments of the same size and character as proposed for the landless Indians of Northern California, and that the allotments so surrendered shall be restored to the public domain; that those Indians who have received mountain or timber allotments shall have the privilege of exchanging them for allotments of the same size and character as those proposed for the landless Indians of northern California, and that the allotments so surrendered be added to the forest reserves, that the exchange of allotments and the purchase of the land for exchange where necessary be placed in charge of the same commission as that which handles the other proposed northern California allotments, and that the unexpended portion of the appropriation for the support and civilization of the northern Indians of California, 1906, be reappropriated in such form that it may be used in the purchase of land.

RECOMMENDATIONS COMMON TO BOTH NORTHERN AND SOUTHERN CALIFORNIA.

That further legislation be passed for the protection of the land and water rights of Indian allottees; that provision be made for an increase in the number of field matrons and industrial instructors; that the number of day schools be increased; that additional legislation be passed placing Indian allottees within the scope of the laws against selling liquor to the Indians, and that the boundaries of the various reservations of California be determined and marked.

Respectfully submitted.

C. E. KELSEY,
Special Agent for California Indians.

The CHAIRMAN. It is now 12 o'clock, and the hearing is closed.
(Whereupon, at 12 o'clock noon the committee adjourned.)

ALLOTMENTS OF THE QUAPAW INDIANS

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

THIRD SESSION

JANUARY 22, 1921

COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

HOMER P. SNYDER, *New York, Chairman.*

PHILIP P. CAMPBELL, *Kansas.*

ROYAL C. JOHNSON, *South Dakota.*

FREDERICK W. DALLINGER, *Massachusetts.*

BENIGNO C. HERNANDEZ, *New Mexico.*

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JOHN REBER, *Pennsylvania.*

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CARL HAYDEN, *Arizona.*

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WILLIAM W. HASTINGS, *Oklahoma.*

ZEBULON B. WEAVER, *North Carolina.*

RICHARD F. MCKINIRY, *New York.*



WASHINGTON

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STATEMENTS OF THE QUAPAW INDIANS.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, Saturday, January 22, 1921.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. The meeting was called to take up the affairs of the Quapaw Indians. The bill before us is H. R. 15780.

Mr. HASTINGS. There is an error in it.

The CHAIRMAN. We are met this morning for the purpose of beginning a hearing on H. R. 15780 with reference to an extension for the Quapaw Indians, and this is a matter that has been up for some time. It was brought to our attention at the hearing held at Chilocco, when the Indian committee was out on its investigation in the field, and there seems to be some urgency about the matter. It was thought advisable to have a hearing this morning to give those interested an opportunity to be heard on the question. Perhaps, to get the administrative facts on the matter, we had better listen to Mr. Meritt first. If that is agreeable to the committee, Mr. Meritt, you may make whatever statement you see fit in the matter.

STATEMENT OF EDGAR B. MERITT, ASSISTANT COMMISSIONER, BUREAU OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, H. R. 15780 proposes to extend the trust period on the allotments of certain Quapaw Indians in Oklahoma. There are 62 Indians affected by this legislation. There were 234 original Quapaw allotments made and there are now 336 enrolled Quapaws. The trust period will expire on part of those allotments September 25, 1921, and on others on October 18, 1921. It will be seen, therefore, that this is an urgent matter if legislation is to be procured before the expiration of the trust period. We had a competency commission visit the Quapaw country.

The CHAIRMAN. When?

Mr. MERITT. Within the last few months. They examined each Quapaw Indian and determined whether or not he was competent to handle his own affairs. It was the desire of the Indian bureau that no Indian who is competent should be included in this incompetent list. Therefore, the number was reduced to 62 out of a total of 336. In order that the committee may have full information before them, I will ask to include at this point the report of the competency commission made by J. R. Wise, special supervisor, and Carl B. Mayer, superintendent.

The CHAIRMAN. If there is no objection it will be included at this point.

Mr. MERITT. I would like also to have included in the hearing at this point the report made by the Secretary of the Interior on this proposed legislation.

The CHAIRMAN. If there is no objection it will be included. (The reports referred to are as follows):

DEPARTMENT OF THE INTERIOR,

Washington, January 15, 1921.

MY DEAR MR. SNYDER: Your attention is invited to the matter of the restrictions against alienation of Quapaw Indian allotments in Oklahoma.

In the act of March 2, 1895 (28 Stats. L., 876-907), it was provided that the allotments of land to the Quapaw Indians should be inalienable for a period of 25 years from and after the date of the patents. It appears that covered by said act there were 234 allotments made to which the patents were issued on September 26, 1896, and 236 allotments made to which the patents were issued on October 19, 1896, said patents being those described as restricted fee patents. The period of restriction against alienation of said allotted land will, therefore, expire in September and October, 1921.

By section 1 of the act of Congress approved March 3, 1909 (35 Stats. L., 751), the Secretary of the Interior was authorized upon application of adult members of any of the tribes of Indians belonging to the Quapaw Indian Agency in Oklahoma to remove the restrictions on any part of or on all the land allotted to such applicants, and to permit a sale under such terms and conditions as he might deem for the best interests of the applicants excepting as to a tract in each case of not less than 40 acres designated as a homestead.

The leasing of restricted Indian lands in the Quapaw Agency, Okla., for lead and zinc mining operations and purposes is governed by the provisions of the acts of Congress approved June 7, 1897 (30 Stats. L., 62-72), and March 3, 1909 (35 Stats. L., 781-783). A number of the Quapaw Indians are not sufficiently advanced to be deemed capable of properly managing and conserving their restricted property, which property in many cases is of great value.

In connection with the above-mentioned matter, there are transmitted herewith a copy of the report of January 8, 1921, of the competency commission, relative to the Quapaw Indian allottees and heirs of Quapaw allottees, and copies of the accompanying lists of Quapaw Indian allottees and heirs of allottees, from which report and lists it appears that 62 Quapaw allottees and heirs of Quapaw allottees have been found incompetent to care for their property and business affairs and properly protect their own interests. Said Quapaw allottees and heirs of Quapaw allottees who have not been found competent are as follows: John Beaver, Mah-hunk-a-zhe-ka, now Beaver, Anna Beaver, now Bear, Arthur Buffalo, Lizzie Cedar, Peter Clabber, Minnie Greenback, now Clabber, Harry Crawfish, Thomas Crawfish, Mary Crawfish, now Skye, Francis Quapaw Goodeagle, Wat-tah-nah-zhe Goodeagle, Khah-Daah, or Grandeagle, now Quapaw, Antoine Greenback, Joseph Greenback, He-gom-me or Goodeagle, Mis-kah-get-tah, Amos Newhouse, John Quapaw, Nellie J. Ball, now Quapaw, Ta-mes-heh or Quapaw, Benjamin Quapaw, Solomon Quapaw, Frances Quapaw, now Gokey, Julia Stafford, now Shapp, Hah-dah-ska-tun-ka, or Track, Mes-kah-tun-ka or Track, now Slagle, Flora Young Greenback, now Whitebird, James Xavier, Anna Xavier, now Collins, Wah-she-mah-tah-het Track, now Martha Track Quapaw, Henry Buffalo, Clara May Buffalo, Hazel L. Buffalo, now McDunner, Nora Buffalo, now Brock, William Buffalo, James Amos Valliere, Georgia Alice Valliere, now Hampton, Iva Amelia Valliere, Jesse Daylight, Clayton C. Daylight, Emma Louise Blansett, Alphonso Greenback, jr., Lulu May Greenback, Mary Mollie Greenback, Amy Greenback, Woodrow Wilson Greenback, John Greenback, Alphonso Greenback, sr., Beatrice C. Peters, now Shapp, Juanita Alma Dawes, Agnes Track, Dennis Wilson, Erwin Wilson, Martin Wilson, Mary Wilson, Louise Wilson, Robert A. Whitebird, Helene Irene Whitebird, Thomas Xavier, Elnora Quapaw, and Lucy Lottson Beaver.

In view of the inclosed report of the competency commission, I am of the opinion that legislation should be enacted extending for the period of 25 years the restrictions against alienation of Quapaw Indian lands allotted to or inherited by any of said incompetent Indians above named.

In connect on with such legislation, provision should also be made for the leasing of said restricted lands for such period of time and under such regulations, terms, and conditions as may be prescribed by the Secretary of the Interior. Under the circumstances it should also be provided that production

of minerals on said restricted lands may be taxed by the State of Oklahoma in all respects the same as that produced on unrestricted lands. In connection therewith the Secretary of the Interior should be authorized to cause to be paid out of individual Indian funds held under his supervision belonging to the Indian owner of the land, the tax so assessed against the royalty interests of the respective Indian landowner in such production. Further provision should be made, however, in relation to such tax that it should not become a lien or charge of any kind or character against the land or other property of the Indian owner.

I am submitting herewith the draft of a bill having the above-mentioned purposes in view. Believing that legislation as suggested in the draft bill submitted is necessary for the protection of the best interests of the Indians named above, I recommend and urge the early enactment of such legislation.

Cordially, yours,

JOHN BARTON PAYNE,
Secretary.

HON. HOMER P. SNYDER,
*Chairman, Committee on Indian Affairs,
House of Representatives.*

Mr. MERITT. In this report we name 62 Quapaw Indians who will be included in the legislation if passed. There is one error in the bill as printed on page 2, which refers to House Report No. 1205, Sixty-sixth Congress. I think that number should be left blank until it is definitely determined what is the number of the report.

The CHAIRMAN. For what period do you extend this?

Mr. MERITT. For a period of 25 years. You will note also, Mr. Chairman, in this legislation that the lands will be taxable and the Secretary of the Interior has the authority at any time when any one of these Indians becomes competent, to remove the restrictions.

The CHAIRMAN. What will happen, in your judgment, to these incompetent Indians if the extension should not be granted?

Mr. MERITT. They will lose their property; they will be robbed of their property very quickly.

The CHAIRMAN. What do you mean by being "robbed of their property?"

Mr. MERITT. If the restrictions were removed they would be induced by land speculators to dispose of their property at a very small consideration.

The CHAIRMAN. Then, in other words, if there is no restriction those incompetent Indians would come into sole possession of their property?

Mr. MERITT. Yes, sir.

The CHAIRMAN. What you mean by their being "robbed" is that some one might take their property away from them?

Mr. MERITT. That would undoubtedly be the result.

The CHAIRMAN. By purchase or otherwise?

Mr. MERITT. Yes, sir.

The CHAIRMAN. In other words, the Government would no longer have any control over those 62 Indians of which you have spoken?

Mr. MERITT. No, sir; I might add that I recently visited Miami and had a conference with a large number of Quapaw Indians and talked personally with a good many of those Indians and any one who will talk to these Indians will be convinced that some of them are absolutely unqualified to handle their own affairs. Some of the Indians are old and some are blind and a number of them can not speak the English language.

The CHAIRMAN. What is your department of the Government doing for those incompetent Indians now?

Mr. MERITT. We have a superintendent located among them who looks after the affairs of the Indians and see that their property rights are protected, and those Indians who have their lands leased for mineral purposes, the superintendent looks after that end of their business to see that they get their proper royalty. We also have an Indian boarding school there.

The CHAIRMAN. What is the average income of those 62 Indians?

Mr. MERITT. A few of those Indians have very large incomes. The incomes of the others are small.

The CHAIRMAN. Will you point out as nearly as you can from memory what is the largest income of say two or three?

Mr. MERITT. One Indian has an income of \$90,000 a year from his mining interests.

The CHAIRMAN. One of the incompetent Indians?

Mr. MERITT. Yes, sir.

The CHAIRMAN. What is the next largest income?

Mr. MERITT. It runs all the way down to a few dollars a year.

The CHAIRMAN. What I am trying to get at is are there any of these Indians who do not share in the benefits to such an extent that the Government has to assist them?

Mr. MERITT. Some of those Indians have allotments that are not leased for mining purposes. They get their income from leasing of their lands for agricultural purposes.

The CHAIRMAN. As a tribe?

Mr. MERITT. No, sir; as individuals.

The CHAIRMAN. Is there any tribal fund in which those 62 Indians participate?

Mr. MERITT. The lands have been allotted.

The CHAIRMAN. They have all been allotted?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Who is this Indian who has an income of \$90,000?

Mr. MERITT. Benjamin Quapaw.

The CHAIRMAN. Is he present?

Mr. MERITT. Yes, sir.

STATEMENT OF MR. DAVID B. HENDERSON, OF WASHINGTON, D. C., ATTORNEY FOR THE QUAPAW INDIANS; ALSO STATEMENT OF MR. VICTOR GRIFFIN, INTERPRETER.

The CHAIRMAN. Does Benjamin Quapaw speak English?

Mr. GRIFFIN. No, sir.

The CHAIRMAN. Has Benjamin any children?

Mr. GRIFFIN. He has no children.

The CHAIRMAN. Is he married?

Mr. GRIFFIN. He is married now.

The CHAIRMAN. Recently?

Mr. GRIFFIN. Just before we started, a day or two before we started, he got married.

The CHAIRMAN. So we have with us a bridegroom who has an income of \$90,000 a year?

Mr. KELLY. That is the answer.

The CHAIRMAN. He ought to be a happy man. That is getting away from the proposition to some extent. What is done with the income of Benjamin Quapaw?

Mr. MERITT. The money is deposited in the bank to his credit and draws interest, and the superintendent is very liberal in allowing him funds as he desires them.

The CHAIRMAN. Why is he declared incompetent? What particular thing is there about Benjamin that makes him incompetent? He looks like a pretty clean-faced old gentleman.

Mr. MERITT. In the first place he can not speak the English language. He does not understand business methods, and it is necessary to have his business affairs supervised by one of our superintendents.

The CHAIRMAN. Is he agreeable to this proposition?

Mr. MERITT. Yes, sir; he is here to advocate it.

The CHAIRMAN. He is here to advocate continuing it?

Mr. MERITT. Yes, sir.

STATEMENT OF MR. BENJAMIN QUAPAW (INTERPRETED BY MR. VICTOR GRIFFIN).

Mr. KELLY. Was he ever in school at any time?

Mr. QUAPAW. I went to school about two months; that is all the schooling I ever had.

Mr. KELLY. Were there any schools on the reservaion at all since the time that he might have gone to school?

Mr. QUAPAW. There is one school on the reservation known as the Quapaw Boarding School.

Mr. KELLY. But he never went there more than two months?

Mr. QUAPAW. Yes, sir.

Mr. KELLY. Mr. Quapaw has an income of \$90,000. How much does he actually expend in his own handling?

Mr. GRIFFIN. I do not know. Mr. Meritt can tell you more about that. We never could find out. He would not really know.

Mr. KELLY. Of course, every dollar he gets has to come through the superintendent and the office here?

Mr. GRIFFIN. Yes, sir.

Mr. KELLY. He does not handle it himself?

Mr. GRIFFIN. It is handled through the office.

Mr. KELLY. I would like to know how he gets it through the office?

Mr. GRIFFIN. I think Mr. Meritt allows him \$300 a month and expenses, and allows him to buy whatever he wants to buy, and they have to O. K. the bill and send it into the office, and Mr. Meritt settles it.

Mr. MERITT. We are very liberal with allowances to him. We allow him \$300 a month for expenses, and then when he wants to buy an automobile or anything outside of the regular expenses, we permit him to do it and are very liberal in the allowance.

The CHAIRMAN. Is there any opposition to this bill on the part of these incompetent Indians?

Mr. MERITT. No, sir.

The CHAIRMAN. Or by anybody else?

Mr. MERITT. All the Indians are in favor of it. They met me recently, near Miami, Okla., in a conference and urged this legislation be passed.

Mr. GRIFFIN. All of them who have any mines on their lands are willing to pay taxes.

The CHAIRMAN. Is that in the bill?

Mr. GRIFFIN. The majority of the 62 Indians do not spend money on their land. There are just a few of them who have mines, such as John Beaver and Benjamin Quapaw. There are just a few of these fellows who have mines. Most of the mines down there are owned by a lot of the adopted members.

Mr. MERITT. There are no Indians who are opposed to this bill. They are all in favor of the bill and urge its adoption, and have gone so far as to send a committee of Indians here from among their tribe to urge the passage of this bill.

The CHAIRMAN. Why do you want it extended 25 years?

Mr. MERITT. The Secretary and the commissioner want it extended for that time, and if in the meantime any of these Indians get to be competent we would have authority under the legislation to remove the restriction.

The CHAIRMAN. All the Indians you mention are adult Indians?

Mr. MERITT. Some of them are minors.

Mr. GRIFFIN. A great many of them are minors.

The CHAIRMAN. Are the minor children attending school?

Mr. GRIFFIN. All are in school.

The CHAIRMAN. Have you reasonably good school facilities out there?

Mr. GRIFFIN. Yes, sir, they have two public schools and also a Catholic mission school at Chilocco, and some of them are at the Chilocco boarding school and Haskell.

Mr. MERITT. We have a boarding school near those Indians. We also have a Catholic mission school that educates some of the Indians. We are getting a large number of Indians in the public schools. The public schools around Miami have been very generous in making provision for the education of Indian children.

The CHAIRMAN. I will ask a question for the record that I asked you outside. Suppose legislation should be passed which would direct incompetent Indians, when found competent, to be so declared. Would that effect any of these Indians? What I have in mind is you particularize by mentioning the names of the Indians incompetent.

Mr. MERITT. Under this proposed legislation, if it should pass, it would apply to these Indians as soon as they became competent.

The CHAIRMAN. Do you so understand it?

Mr. CARTER. I do not think I understand that.

The CHAIRMAN. In this bill there are mentioned the names of 62 incompetent Indians. What I had in mind was that these men, being mentioned, this legislation that we propose might not apply to them.

Mr. HASTINGS. There will be no doubt about that, Mr. Chairman.

Mr. MERITT. As a matter of law, the legislation that is suggested if passed by Congress, would apply to the Indians if they became competent.

Mr. KELLY. Suppose this committee and Congress should adopt a policy of declaring citizens any Indian children of any degree of blood who have gone through the seventh grade in school. Some of those children are heirs of these Indians here. You propose to restrict them for 25 years longer and overthrow that general policy of Congress?

Mr. MERITT. No, sir; if Congress should subsequently pass this legislation the legislation you suggest would override this legislation.

Mr. KELLY. And apply to these Indians?

Mr. HASTINGS. This bill, if enacted, would not prevent the Congress of the United States from enacting any other legislation if it saw fit.

Mr. KELLY. It looks as if it would if the restrictions were continued for 25 years.

The CHAIRMAN. The thing I had in mind is this, that it is the only legislation of this kind put through since my knowledge of Indian affairs, where the incompetent was named.

Mr. HASTINGS. I expect I am responsible in part for that. As Mr. Meritt has stated, there are some 300 members of this tribe. All of their restrictions are removed, as I understand it. As one member from Oklahoma and a member of the Indian Affairs Committee, I was unwilling to extend the restrictions on any of them which would include a lot of competent members of the tribe, and when it was discussed last year the suggestion then was made that they have a competency commission go out there and go over these cases individually and report up here those who were regarded as incompetent, so that we would not by this bill extend the restrictions over practically 300 competent people who would be forced, individually, to make application to the local man and have each case sent up here. Hence, in extending the restrictions, this bill proposes to extend restrictions only upon those who are regarded as incompetent by the department.

Mr. KELLY. Are those Indians presumed to be forever incompetent? There is no chance of these 62 Indians ever being competent?

Mr. MERITT. Some of the Indians will be competent; some of the minors, when they reach age, will be sufficiently competent to have their restrictions removed, and the object of the legislation is simply to direct that their restrictions be not removed until they become competent.

Mr. CARTER. How many of those are there?

Mr. MERITT. Sixty-two.

Mr. CARTER. Are they all full-bloods?

Mr. MERITT. Practically all.

Mr. CARTER. Are there any of them less than half Indian blood?

Mr. MERITT. No, sir.

Mr. CARTER. Are any of them children who have reached the seventh grade?

Mr. MERITT. I would not be able to answer that.

Mr. CARTER. Had any of the adults reached the seventh grade in school?

Mr. MERITT. I doubt if any of them had.

Mr. CARTER. Do you know about that?

Mr. GRIFFIN. No; I do not think so.

The CHAIRMAN. Are you a Quapaw?

Mr. GRIFFIN. Yes, sir.

The CHAIRMAN. You are not in this restricted class?

Mr. GRIFFIN. I do not know.

The CHAIRMAN. Have you the names of the incompetents?

Mr. MERITT. Mr. Griffin is not named as an incompetent.

The CHAIRMAN. Were you at school?

Mr. GRIFFIN. Yes, sir.

Mr. HASTINGS. His name is not among the 62?

Mr. MERITT. No, sir.

Mr. HASTINGS. Is he a restricted Indian?

Mr. MERITT. He is a patent-in-fee Indian.

Mr. HASTINGS. He is a citizen—a patent-in-fee citizen?

Mr. MERITT. Yes, sir.

The CHAIRMAN. There seems to be no opposition to this bill?

Mr. CARTER. It does not enter into the policy of these questions.

Mr. HASTINGS. Are all of those Quapaw Indians citizens?

Mr. MERITT. I would say that they would be construed as citizens because they were allotted prior to the Burke Act.

Mr. KELLY. In other words, those names named in this measure have the right to vote now?

Mr. MERITT. Of course, that would depend on whether the local authorities would allow them to vote; but legally I believe they would be considered as citizens and entitled to vote.

Mr. CARTER. Does not the constitution of Oklahoma make all Indians citizens of the State?

Mr. HASTINGS. That is my recollection. How many of them are minors whom you include in this list?

Mr. MERITT. A large majority of them are minors.

Mr. HENDERSON. The majority of the 62 are minors?

Mr. HASTINGS. About how many of them are allottees and how many are heirs of allottees? I understand that all included in this list do not have separate allotments. Is that correct?

Mr. MERITT. Some of them are heirs to allotments. I will have to get the detailed information from the records and place it in the record at this point.

The CHAIRMAN. You may put it in the record then.

Mr. MERITT. Yes, sir. Of the 62 Quapaws declared incompetent by this legislation, 31 are allottees and 31 are unallotted heirs; 38 are adults and 24 are minors.

Mr. HASTINGS. You were asked if they were all full bloods and you answered that they were practically all. I hurriedly ran over the report and do not notice any not listed as full bloods.

Mr. MERITT. I think that they are all full bloods.

Mr. HASTINGS. All I notice on that report are full bloods. You meant that practically all of those down there, a great majority of the 62?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. The adults you met were all agreeable to this legislation?

Mr. MERITT. All were agreeable to it and urged that it be passed.

Mr. HASTINGS. Will those Indians be listed and so identified by those reports so that you could identify the particular individuals for whom we are legislating?

Mr. MERITT. Yes, sir; they are named in the report of the Secretary of the Interior transmitting the legislation.

Mr. HASTINGS. If this legislation is passed, how will their lands be leased, usually, for mineral purposes? Will they make a lease with the company or corporation and let the local superintendent then forward that lease to the Secretary of the Interior for approval?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Then you see they get an adequate royalty for the mining on their lands?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. The mineral is lead and zinc. There is no oil as far as you know, nor gas?

Mr. MERITT. No, sir. I recently visited those lead and zinc mines and might say they are very rich mines and a large amount of money is invested on some of these allotments. I went down in one lead and zinc mine where they have over \$3,000,000 invested in that one allotment.

Mr. HASTINGS. You propose to subject this mineral to the gross production tax of the State. Do the Indians understand that?

Mr. MERITT. They understand it.

Mr. HASTINGS. It is agreeable to them?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. I notice it is a uniform tax? That is, whatever the State taxes anybody else they tax those Indians?

Mr. MERITT. Yes, sir; we realize it would be almost impossible to get this legislation without any provision of law taxing the Indians, but inasmuch as they have a large income from royalties on their lands and inasmuch as a number of their children are going to the public schools, we feel that it is proper that this tax should be imposed.

Mr. HASTINGS. You think it is fair, do you not?

Mr. MERITT. Yes, sir.

Mr. KELLY. In a case like Benjamin Quapaw here, who has \$90,000 income and is spending \$4,000 or \$5,000 of it a year—that money is in the Treasury drawing interest. He has no children. If he dies, what becomes of the money that is in the Treasury to his credit?

Mr. MERITT. It will go to his legal heirs.

Mr. HASTINGS. It is under the Oklahoma law.

Mr. KELLY. Whoever the heirs may be they get the money in the Treasury? This bill was originally passed 25 years ago, in 1895?

Mr. MERITT. Yes, sir.

Mr. KELLY. So that most of those on this list you are carrying now were not born when those restrictions were placed on originally?

Mr. MERITT. A number of them were not born.

Mr. KELLY. They have had 25 years to grow up and take advantage of the education and schools, and you are asking for 25 years more to restrict them?

Mr. MERITT. We are asking for extension for the 25 years. It should be borne in mind that a large number in this list are minors, and, of course, they are not competent to handle their own affairs.

Mr. KELLY. But they were at the time this originally passed in 1895, and those born after that date would be educated and ought to become capable of being American citizens, but here they are asking for 25 years more?

Mr. MERITT. Yes, sir.

The CHAIRMAN. How much of that comes about by reason of recent births to incompetent Indians?

Mr. MERITT. I have promised to put into the record the number of adult Indians and minors.

The CHAIRMAN. Yes.

Mr. MERITT. I would say that 75 per cent of the Indians named are minors.

Mr. HASTINGS. Approximately when were those allotments completed—about how many years ago?

Mr. MERITT. Between 24 and 25 years ago.

Mr. HASTINGS. About how many allotments are affected by this bill? I mean separate allotments. A great many of these are heirs' allotments.

Mr. MERITT. Sixty-one separate allotments are affected by the provisions of this bill.

The CHAIRMAN. The only question that seems to come up in my mind is the length of this extension—whether it ought to be 25 years or not with the facilities they have at their disposal now for educating the children. These minors ought to be all citizens and competent before that period expires, and all the old ones practically will have passed away.

Mr. MERITT. That is true and that would be the way this legislation would work out. We do not intend to keep the competents under restriction for 25 years. As soon as they become competent it is our intention to remove their restrictions.

The CHAIRMAN. Of course, the period to which we extend it will not make so much difference provided we can put into effect the actual declaration now and then put the incompetent Indian into competency, but that has been a very slow process up to now?

Mr. KELLY. That is the difficulty, they are coming in faster than they are going out.

Mr. HASTINGS. Let me ask Mr. Meritt the construction of the last proviso of the bill which reads as follows:

Provided, however, That such tax shall not become a lien or charge of any kind or character against the land or other property of said Indian owner.

Why is that necessary?

Mr. MERITT. Because we do not want to cloud the title of the land of the Indians. The Government is supposed to hold these lands under restriction and their titles can not be clouded as long as held under restriction by the Government.

Mr. HASTINGS. If those Indians do not make anything they do not have to pay any taxes and there would not be any lien against the land or the property, and if they do, why should it not be a lien against their property the same as imposed against any other property?

Mr. MERITT. Our idea is that it would be inconsistent with all Indian laws to allow a State to place a lien on land held in trust for an Indian by the Government.

Mr. HASTINGS. You collect the royalties and you are directed here to pay this tax. Suppose you do not pay it, how will the State compel you to do so?

Mr. MERITT. The State would bring an action.

Mr. HASTINGS. It can not get into court to bring any action if you provide that this is not a lien. The State itself can not go and sue the Government of the United States without the permission of the Congress, and if you provide that this shall not be a lien then it can not be collected at all?

Mr. MERITT. Could not your point be covered by striking out on page 3, lines 6 and 7, of the bill, H. R. 15780, "or other property," so that it would be a lien on the royalty? If you strike out those words there would be a lien against the money.

Mr. HASTINGS. Against the money or the mineral?

Mr. MERITT. Yes, sir. I see no objection to that amendment. It is not desired to deprive the State of this tax under the bill, but we want to protect the lands of the Indians so that there will be no cloud on the title.

Mr. HASTINGS. Then that would not affect the Indians other than the land itself and not the mineral which was developed from the land or the money for which it was sold?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Are there any further questions?

Mr. KELLY. Would it not be possible in there, Mr. Meritt, instead of providing a term of 25 years in which the restrictions shall continue, to provide that they shall continue until the Secretary of the Interior finds those Indians competent and he is hereby authorized to declare them competent whenever found to be able to conduct their business?

Mr. HASTINGS. That is done in this act.

Mr. KELLY. But take out the 25 years, which is a definite time, in there?

The CHAIRMAN. At the suggestion of Mr. Carter, we are going to add to this bill the section in the omnibus bill covering the seventh grade education.

Mr. KELLY. That ought to be done.

The CHAIRMAN. That will not hurt the bill any?

Mr. MERITT. No, sir.

The CHAIRMAN. That will take care of itself as they go along.

Mr. KELLY. A good many of them.

Mr. MERITT. I believe you will agree with me, gentlemen, that this is probably one of the most liberal bills that has ever been submitted by the department to Congress.

Mr. KELLY. Yes; it looks so to me.

Mr. MERITT. We consent to taxation on their minerals, and we agree to the removal of the restrictions as soon as the Indian becomes competent. We want to protect those Indians down there who are absolutely incompetent.

The CHAIRMAN. We want to do that, too.

Mr. MERITT. If the restrictions are removed on those lands the Indians would lose these valuable mines within a short time.

The CHAIRMAN. The only thing we want to get into the minds of all Indians to-day is that when an Indian becomes competent he is going to be declared competent and made a full citizen of the United States. That is in the interest of the Indians and in the interest of the country.

Mr. MERITT. I am thoroughly in sympathy with that policy.

The CHAIRMAN. If there is nothing further we will declare an executive session and try to finish up this bill this morning, unless there are more questions to be asked.

Mr. HASTINGS. Do these Indians exercise the right to citizenship, you Quapaw Indians?

Mr. GRIFFIN. Do we desire to?

Mr. HASTINGS. Do you exercise or do you vote individually?

Mr. GRIFFIN. Yes; we vote.

Mr. CARTER. Do you sit on a jury?

Mr. GRIFFIN. I never was on a jury.

Mr. CARTER. Some of them do occasionally?

Mr. GRIFFIN. I do not know but one that was on a jury.

The CHAIRMAN. Would it not be a good idea to test Benjamin Quapaw's competency by putting him on the stand?

Mr. KELLY. Yes; put him on the stand.

STATEMENT OF MR. BENJAMIN QUAPAW (INTERPRETED BY MR. VICTOR GRIFFIN).

The CHAIRMAN. Benjamin has just taken to himself a new wife?

Mr. QUAPAW. Yes, sir.

The CHAIRMAN. How many times have you been married previous to this?

Mr. QUAPAW. Twice.

The CHAIRMAN. How old are you?

Mr. QUAPAW. I do not know.

The CHAIRMAN. You must know somewhere near how old you are? Make a reasonable guess about how old you are. How old were you when the Quapaws came to Oklahoma?

Mr. QUAPAW. I do not remember the time when they first came to Oklahoma.

The CHAIRMAN. Were you born before or after the Civil War?

Mr. QUAPAW. I was born before the Civil War.

The CHAIRMAN. Do you remember the war?

Mr. QUAPAW. No, sir; I do not remember it.

The CHAIRMAN. How many years have you been receiving a large income from this property that you own?

Mr. QUAPAW. I do not remember how many years.

The CHAIRMAN. How much money did you actually receive last year, yourself—how much did the department give you last year?

Mr. QUAPAW. I do not know how much I received last year. All I know is that I am getting \$300 a month; that is all I know.

The CHAIRMAN. Did you buy any automobiles last year?

Mr. QUAPAW. Yes, sir.

The CHAIRMAN. How many?

Mr. QUAPAW. I only bought three automobiles since I have been drawing this money.

The CHAIRMAN. Did you take any long trip last year on your own account as a pleasure trip or something of that sort?

Mr. QUAPAW. Yes; I took a trip last fall.

The CHAIRMAN. Who did you take with you?

Mr. GRIFFIN. I was along with him and also the wife which he has now and her parents and his chauffeur and others. There were six cars that were used. We went to Galveston.

The CHAIRMAN. Did Benjamin pay all the expenses?

Mr. GRIFFIN. No; he just paid his own expenses. Each and every one of us paid our own expenses.

The CHAIRMAN. Are you in business from which you get any income? Do you work or farm or do any business of any kind?

Mr. QUAPAW. It is only this last year that I started in doing that.

The CHAIRMAN. What did you start in doing?

Mr. QUAPAW. I started in farming. I rented some ground, and hay grounds, made hay there and farmed some grounds.

The CHAIRMAN. Did you rent those grounds yourself or have somebody else do it for you? Did you carry on the negotiations for the rental of the farm?

Mr. QUAPAW. The only way I have done is that I have gone over there to see that the work is done. I have men there to do that work. I was present to see that they did the work.

The CHAIRMAN. Did you find that the work was well done or poorly done?

Mr. QUAPAW. I could not know; it was the first time I had made an effort to farm. I could not say whether that was good or bad work.

The CHAIRMAN. It seems that you are trying to find out whether you are competent to operate a farm?

Mr. QUAPAW. Yes; I am trying to find out and learn.

Mr. KELLY. Do you hire these men yourself that you have at work on the farm?

Mr. QUAPAW. Yes, sir.

Mr. KELLY. You paid them and looked after that to see that they did the work?

Mr. GRIFFIN. He says he did during the farming time, paid for it himself, except once.

Mr. KELLY. Have you ever voted?

Mr. QUAPAW. Sometimes I have. Every time they vote they wanted me to go.

Mr. KELLY. Has anybody ever tried to stop you when you tried to vote?

Mr. QUAPAW. The only thing they did when I voted was to tell me where to vote; that is the only thing I know about it.

Mr. KELLY. You are not alone in that respect.

The CHAIRMAN. Benjamin is not a drinking man?

Mr. GRIFFIN. No, sir; he is not.

The CHAIRMAN. Has he ever been?

Mr. GRIFFIN. He used to, quite a long time ago when I was a boy or 8 years old. Then I saw him drinking at that time, afterwards never saw him taking a drink in my life.

The CHAIRMAN. Why are you in favor of continuing as an incompetent Indian and not having the disposition of your own money?

Mr. QUAPAW. I do not understand this taxation affair. Another reason is that I am not educated, and I do not speak the English language good enough so that I could handle my own business. I do not feel that I can handle my own business.

Mr. CARTER. He has not confidence in himself?

Mr. GRIFFIN. That is it.

The CHAIRMAN. But he understands the English language pretty well through an interpreter?

MR. GRIFFIN. I get him to understand what I am talking about. He understands it.

THE CHAIRMAN. Of course, Indians with incomes such as he has who are not able to understand the English language can, of course, outside of the Indian Service find people to help them conduct their affairs just as capably as they could inside of the bureau. It seems to me that this man has qualified here as competent as many American citizens are to-day, perhaps not any who have as much money as he has, but he is able to get employees and pay them. He has not got to that state, apparently, where he feels he is competent to judge between good and bad work on a farm, but nevertheless he shows many evidences here that he has good judgment. It seems to me that just because a man has a large income the law should not prescribe for that man that he is not competent because of the possibility of somebody else taking away some of his money.

MR. CARTER. The difficulty about that would be, I think, if you trusted this individual to supervise his affairs, the individual would not be under bond and would not have that same restraint upon him that the Indian Bureau has in managing his affairs and would, perhaps, not be quite so amenable to prosecution.

THE CHAIRMAN. I see that point, of course.

MR. KELLY. You have laws in Oklahoma which decide the questions of right and wrong of money relations. Why should not the laws of Oklahoma apply in cases of that kind?

MR. CARTER. The laws of Oklahoma would not apply. For instance, if this man wanted to charge a commission of 50 per cent on a deal, the laws might not apply to that. If the man were going to make a \$10,000 deal for him and wanted to charge him 25 per cent, which would be excessive, no law might apply to that.

THE CHAIRMAN. Would not the competition between Oklahoma lawyers keep the price of commissions down reasonably?

MR. CARTER. Once this man selected an individual to represent him, he would retain that fellow for his agent until he found he was defrauding him, and by the time he discovered it perhaps his patrimony would be dissipated.

THE CHAIRMAN. I notice in his statement, at least, the statement that the interpreter put back to the question, that he did not understand taxation. It occurs to me that is the one thing he does understand. That may be the only reason why he does not want to be a citizen. We are discovering, and you will find it in the hearings at Chilocco, that there are a large number of Quapaws who are not citizens, who do not want to be citizens because they do not want to pay taxes.

MR. CARTER. Yes.

THE CHAIRMAN. It might be that a man would desire to be continued incompetent who had a large income, for that very purpose.

MR. CARTER. Yes.

MR. KELLY. They pay income taxes?

THE CHAIRMAN. He pays income tax.

MR. HASTINGS. I think the Indians have to pay income taxes. None of them are exempted.

MR. MERITT. Yes, sir.

THE CHAIRMAN. I am just arguing; the point I have in mind is trying to get over the bureau's authority to keep Benjamin Quapaw

an incompetent Indian, and I want to see a man with \$90,000 income a year treated exactly the same as a man who has not a cent. Are we taking care of an incompetent Indian who has not a cent with the same fatherly discretion that we are Benjamin Quapaw? I doubt it.

Mr. HASTINGS. I think we ought to take care of the little fellow as much as the big one. I will make this additional observation, that if the restrictions were removed from this man he would be subjected to a great many more temptations in the way of trying to get his property away from him that he would not be subjected to now.

The CHAIRMAN. I do not see that any one is taking very much of his property now, and this property is slowly being accumulated for his heirs, of whom he has none; that is, no heirs except a wife he has just married within the last two or three days.

Mr. HASTINGS. I think from the evidence that he gets all he wants and is entitled to. They seem to allow him all he wants.

Mr. CHAIRMAN. If he gets \$5,000 a year and has \$90,000 income he is not wallowing in wealth?

Mr. HASTINGS. I understand he gets \$300 a month and then they allow him to purchase on the side anything he wants.

The CHAIRMAN. Can Mr. Meritt tell us roughly how much Benjamin Quapaw received last year, 1920?

Mr. MERITT. For the calendar year 1920, Benjamin Quapaw received for personal use \$4,997.85. In addition thereto there was expended for his use for auto upkeep, labor repairs to same, fencing and road tax insurance, farm implements, stock, seed, etc. \$13,864.17, and for settling up claims, suit of the United States *v.* Apple, payment of balances on property purchased, back taxes, etc., \$17,610.22, making a total of \$36,472.24.

Mr. CARTER. Has this man a comfortable home?

Mr. GRIFFIN. Yes.

Mr. CARTER. What kind of a house has he?

Mr. GRIFFIN. He has a good, frame house.

Mr. CARTER. How many rooms?

Mr. GRIFFIN. It is a six or eight room house.

Mr. CARTER. Is it a one or two story house; has he a house and yard, and does he keep it up in good shape with his farm?

Mr. GRIFFIN. Yes, sir.

Mr. MERITT. I drove through the Quapaw Indian district recently and there are a large number of Indians who have good homes and good farms and some of them are cultivating their farms the same as white people.

Mr. HASTINGS. Has he any complaint that the department has not allowed him all the money that he desires to purchase anything outside of this \$300 a month? In other words, has he sought to purchase things that have been disallowed him by the department during the past year? Is he satisfied with the disposition that the department has made of his funds?

Mr. GRIFFIN. He is satisfied.

Mr. HASTINGS. He is satisfied with the allowance made to him and with the supervision by the department of his funds? Have you made that clear to him?

Mr. GRIFFIN. Yes, sir.

Mr. MERITT. It should be understood that these three Indians here are very much more competent than the average full blood Indian. They are sent here as representatives and spokesmen and they have been selected because of their ability and standing.

Mr. CARTER. Might it not be that they are just like white people? They do not always send their best men to Washington.

Mr. MERITT. They think they have selected some of their best.

Mr. KELLY. Is this not a fair statement of this situation? Here is a man who is an American citizen and votes in the biggest business organization—the United States Government. He has a part in that the same as every other citizen. He has an income of \$90,000 a year, and a home and farm, also a house. He has everything that the average American citizen has in the way of ability and still he is not only declared incompetent now, but for 25 years longer he is to be declared incompetent with the restrictions on anything he has received. Is not that the proposition?

Mr. MERITT. On the other hand, I think it should be borne in mind that this Indian can not speak the English language. He is probably 70 years of age, and he knows nothing of business affairs. He could be easily induced, if the restrictions were removed, to sign papers that would convey his property for a very small consideration. I venture the statement that if this man's restrictions were removed that some one would get him to sign papers that would take his property from him for a small consideration.

The CHAIRMAN. In that connection you have been in charge of Mr. Quapaw for a good many years. Do you know of any one who has attempted to take anything away from him that he has been receiving from the Government, or who has ever tried to get control of his property in any way?

Mr. MERITT. They can not get control of his property because they know the law is very stringent. As long as it is held under Government restriction these people who deal in Indian property do not attempt to get it.

The CHAIRMAN. I suggest that if Mr. Quapaw had \$500 in money in his pocket that there is no man in this room could get it from him without considerable argument. I think he is wise enough for that. I have had a great many white people before me who did not want to tell me what we wanted to find out, and did not show half the intelligence that this man has. He has answered here this morning these questions, and I will say he is making a very good effort.

Mr. CARTER. Has this man a suit pending now to recover some money that was taken away from him?

Mr. MERITT. Yes, sir. There is some litigation pending.

The CHAIRMAN. He is not the man who built a hotel in Kansas City and did not put a kitchen in it?

Mr. MERITT. No, sir.

Mr. CARTER. Is Benjamin's wife a Quapaw?

Mr. GRIFFIN. The one he has now?

Mr. CARTER. Yes, sir.

Mr. GRIFFIN. Yes, sir.

Mr. HASTINGS. Is she a full-blood Quapaw?

Mr. GRIFFIN. Yes, sir.

The CHAIRMAN. Do you desire to be heard, Mr. Henderson, on this matter?

Mr. HENDERSON. I think everything material has been brought out that I was here interested in.

SURVEY OF THE QUAPAW INDIANS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE, QUAPAW INDIAN AGENCY,
Miami, Okla., January 8, 1921.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: Complying with instructions contained in your letters of April 29 and October 27, 1920, we made a canvass of the living Quapaw Indians and personally visited and interviewed most of them.

Under the original instructions of April 29, 1920, to invite all who were competent, or of more than one-half white blood, to apply for the removal of the restrictions from their allotments, only two applications were received, one from Mary Lane, now Redeagle, which resulted in the issuance of a certificate of competency to her on October 12, 1920; the other from Alexander Lewis, or Alexander Beaver, is now pending before your office.

In compliance with your later instructions of October 27, 1920, to report on the competency of the Quapaws with a view to procuring legislation extending the 25-year restricted period on the allotments of those Indians who are incompetent to transact their business affairs, we have the honor to submit herewith our findings in the form of three lists, headed:

1. "Incompetent Quapaw allottees,"
2. "Competent Quapaw allottees," and
3. "Unallotted Quapaw Indians who have inherited allotments upon which the restrictions should be extended."

The Quapaw allotments were made under authority of an act of the Quapaw National Council of March 23, 1893, by an allotting commission composed of Quapaw Indians and were ratified by the act of Congress approved March 2, 1895 (18 Stats., L. 876, 907), which provided in part as follows:

"And the Secretary of the Interior is hereby authorized to issue patents to said allottees in accordance therewith: *Provided*, That said allotments shall be inalienable for a period of twenty-five years from and after the date of said patents."

There were 234 original Quapaw allotments, each allottee getting 200 acres and from the surplus land a second allotment was made of 40 acres each to 236 allottees. Several allottees received only the last allotment of 40 acres because they were born after the first allotments were made and a few others received only the first allotment of 200 acres because they died before the second allotments were made. The 25-year restricted period expires on the first allotments on September 25, 1921, and on the second allotments on October 18, 1921.

Since the allotments were made the tribe has increased until at the last census there were 336 enrolled members. Of the original 236 allottees there are 88 now living and of this number we find 31 to be incompetent by reason of age and lack of education and business experience to assume the responsibility of having their allotted lands turned over to them without supervision, as was intended when the allotment act was passed. Some of these 31 incompetents have had the restrictions removed from a part of their lands under existing authority of law and have only a part of their lands left.

We find that the restrictions have been removed from over half of the Quapaw allotments and the unrestricted lands have been sold.

We find that a number of the allotments of deceased Indians have passed to heirs who by reason of their minority or lack of education and business experience are wholly unqualified to handle these estates without the supervision of the Government and for whose protection the restrictions on their lands should be extended. The proper protection of these incompetent wards of the Government requires that the restrictions on their lands be extended for at least ten years or until the youngest heir reaches his or her majority.

It will be noted that a large majority of the 56 cases in the competent list are those of Indians with a very small degree of Indian blood. These are mostly very intelligent, capable, progressive people, practically white, and in many instances they never did require supervision or protection. Many of them have received large incomes from mines on their lands and have become wealthy. These allottees have refused to make application for the removal of their restrictions and as there was no authority of law to terminate the restricted 25-year period without their application the restrictions have continued irrespective of the allottees' competency and ability to care for his own affairs. There is no justification for extending the restrictive period in these cases. In order to avoid the possibility of this condition arising in the event any of the allottees whose condition now requires an extension of their restrictions should progress and develop to the point where such restrictions were no longer required, the legislation extending the restrictions should also authorize the Secretary of the Interior to terminate the restricted period in his discretion.

There is included in the list of the "Unallotted Quapaw Indians who have inherited allotments upon which the restrictions should be extended," the case of Lucy Lottson Beaver, an Osage Indian woman who has inherited through her deceased husband, Robert Lottson, a Quapaw Indian, very valuable mineral lands. This woman received three shares of Osage oil payments and large royalties from her inherited Quapaw mineral land, before the Government took control of her mineral royalties in 1919. She fully demonstrated that she was without any business ability and could not handle her business. She still receives her Osage payments to expend without supervision but for her proper protection the restrictions on her inherited Quapaw lands should be extended.

You are familiar with the strenuous efforts made during the past two years to gain control of the estates of the incompetent Quapaw Indians for the purpose of exploiting them and of the fine rally of the best citizenship of this county to the support of the Government to protect them. If the restrictions are allowed to expire on the allotted and inherited lands of these incompetents there is no question but that there will immediately commence a scramble to possess their lands and these incompetents, because of their very incompetency, lack of business experience, gullibility and faithful trust in their white brothers, will soon be plucked clean. This Government, whose wards they have been, and whose duty it was to prepare them for the time when the restrictive period would end and they would be thrown on their own resources should not turn them loose wholly unprepared. There is the same necessity for the extension of the restrictions for these incompetents now as there was for placing of the restrictions on their lands 25 years ago.

There are 5,874.30 acres included in the allotments of living incompetent Indians over which the restrictions should be extended and 11,460.74 acres of inherited land upon which an extension of the restrictions should be made. Of this inherited land only 11 allotments embracing 2,282.59 acres is inherited solely by Indians who received no allotments and who are mostly minors. In other words the living incompetent allottees are interested as heirs either in whole or in part, in 9,178.15 acres of the inherited lands upon which the restrictions should be extended.

The total area upon which the extension of restrictions, allotted and inherited, is recommended is 17,335.04 acres out of the total originally allotted of 56,685.21 acres.

Herewith in duplicate and signed by us as members of the Quapaw competency commission is our report and accompanying list.

Very respectfully,

J. R. WISE,
Special Supervisor.
CARL F. MAYER,
Superintendent.
Competency Commissioners.

COMPETENCY COMMISSION REPORT, QUAPAW AGENCY—LIST OF LIVING INCOMPETENT QUAPAW ALLOTTEES.

John Beaver, allottee No. 150/161; age 62; full blood. He was married a number of years ago to a full-blood Quapaw woman, listed next below. He has two children, both of them grown up and allotted. He lives on 80 acres of his own allotment, consisting of rather rough, rocky land. The place is improved with a splendid modern seven-room bungalow, very comfortably furnished, a

good large barn, an electric light plant, a water system, garage, etc. All these improvements were put on the place under supervision of the agency and paid for from his funds. He also owns 120 acres of prairie land which has valuable mines thereon, with considerable royalty production. He has an income from two mineral leases, one of which has averaged \$2172.39, during the past six months and the other \$458.75, making a total average income of \$2631.14 per month. He does not read or write English and speaks it but very little. He is a splendid old man of the real Indian type, of average intelligence but without business experience, of the sort needed to handle his valuable property. He has some fine thoroughbred stock in which he takes a great interest and to which he devotes a large portion of his time. He wants his restrictions extended, and this should be done, as he is not qualified to handle his valuable property and large income safely. He has bought 140 acres of land, has \$7500 in Liberty bonds and \$400 W. S. S. He also has \$7679.35 in cash to his credit at the present time and some small loans and mortgages.

His own allotment, No. 150/161, comprises:

N/2 of SE and SW of SE of Sec. 19 Twp. 29 North of Range 23 E.	
E/2 of SE	" 6 28 24 E.
NW of NE	" 33 29 24 E.

240 Acres.

This allottee inherits an undivided one-half interest in the allotment of his deceased daughter, Ton gah hah Beaver, described as follows:

Quapaw No. 152/163 Lot 7 and SE of SW of Sec. 18 and lots 1 and 2 and NE of NW of Sec. 19, Twp. 29 N. of R. 23 E. NW of SE Sec. 33 Twp. 29 N. of R. 24 E.

236.20 Acres.

He also inherits an undivided one-half interest in the allotment of his deceased sister, See Sah Quapaw, described as follows:

Quapaw No. 160/171.

SE of NE and SE of Sec. 30 Twp. 29 N. of Range 23 E.

Lot 4	" 3 "	28	"	24 E.
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240.06 Acres.

He also inherits an undivided one-fourth interest in the allotment of his deceased niece, Humbah wat tah Quapaw, described as follows:

Quapaw No. 161/172.

N/2 of NE and SW of NE, E/2 of NW Sec. 30 Twp 29 N of Range 23E.

SE of SW	" 20	29	25E.
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240 Acres.

Meh-hunk-a-zhe-ka, now Beaver, allottee No. 179/195; age 61; full-blood. She was married a number of years ago to John Beaver, listed next above. She still has 200 acres of her allotment located near Neosho. There are no buildings on her land, but a part of it is in cultivation. It is covered by a mineral lease and there is a shaft on it but no mill and no production yet. She has, however, an interest as an heir in valuable mineral land which has netted her in royalties an average of \$3,160.90 per month during the past six months. She has no education and does not read, write or speak English. She is an Indian woman of the old type, has had no business experience and is only fairly intelligent and fairly well informed for a person in her surroundings and circumstances. She is manifestly incapable of handling her valuable property and income, intelligently. She asked to have her restrictions extended as she said she wanted to keep her land for her grandchildren who have no allotments. She has \$26,414.60 to her credit at the present time.

Her own allotment No. 179/195 comprises:

SE of NE and SE of Sec. 13 Twp. 29 N. of Range 22 E.

200 Acres.

This allottee has an undivided one-fourth interest in the allotment of her deceased aunt, Ruth Goodeagle, described as follows:

Quapaw No. 175/190.

NW of SE of Sec. 34 Twp. 29 North of Range 24 E.

W/2 of NW & W/2 of SW 34 and

NW of NE of	25	29	23 E.
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240 Acres.

She also inherits an undivided one-half interest in the allotment of her deceased brother, Slim Jim, described as follows:

Quapaw No. 185/201.

SW of NW and Lot 4 of Sec. 17

S/2 of NE & N/2 of SE " 20

Lot 1 of	"	18	Twp. 29	North of Range 23 E.
Lot 1 of	"	27	" 29	22 E.
Lot 3 of	"	29		
Lot 4 of	"	18	" 29	25 E.
240.01 Acres.				

Anna Beaver, now Bear, Nos. 151/162. Age 33. Full-blood. This allottee is at present living in Baxter Springs, Kansas. She has been married and divorced. She has one child. She still has her allotment of 240 acres. She has some education and reads, writes and speaks English well. Her mineral royalty averages \$2,032.13 per month. She has \$15,089.64 to her credit accruing from mineral royalties. She lacks business sense and requisite experience to handle her valuable property. In fact she knows nothing of the mining operations on her land or the royalty therefrom.

Her own allotment No. 151/162 comprises:

SE of NW and NE of Sec. 19 Twp. 29 North of Range 23 E.

SW of NE of " 33 " 29 " 24 E.

240 Acres.

She also inherits an undivided one-half interest in Quapaw allotments 152/163 of Tongah hah Beaver described above.

Arthur Buffalo, Nos. 8/8. Age 30. Full-blood. Allottee was married 9 years ago to a white woman and has 3 children. He lives on 80 acres of his deceased mother's allotment to which he is heir. He has a good 6 room modern house, barn, stock-barn, garage, poultry house, well, etc., all of which were built for him by the Superintendent. It is a good, well equipped farm home and nearly all of the land is in cultivation. He also has 110 acres of his grandfather's allotment adjoining, of which he is sole owner. He has sold 80 acres of his own allotment and has the balance which joins the town of Quapaw, and is quite valuable because of prospective mineral development. He has several mines and mills on his land now but thus far he has had but little royalty. He also has a part interest as an heir in 3 or 4 other allotments. He went to Quapaw Mission School 3 or 4 years, Seneca Boarding School 7 or 8 years and Haskell Institute 1 month, attaining 6th grade. He is of average intelligence and reads, writes and speaks English. His habits have not always been of the best and he has not been doing very much work himself though he says he intends to farm his home place next year. He has considerable live stock, an outfit of farm implements, and an automobile (Studebaker). He is said to spend quite freely and those who know him well are of the opinion that he would not conserve and keep his property very long should his restrictions be removed. He asked that the same be extended for 10 years for the sake of his children. It is felt that he should be protected for a while longer, at least, by an extension of his restrictions on his valuable property holdings.

His own allotment, No. 8/8, comprises:

SE of sec. 27, Twp. 29 North of Range 23 E.

160 Acres.

This allottee is sole heir to his deceased mother's allotment, Ollie Buffalo, Quapaw No. 7/7, embracing:

S/2 of NE of Sec. 27, Twp. 29 North of Range 23 E.

S/2 of NW " 33 " 29 " " 24 E.

160 Acres.

He is also the sole heir to the allotment of John Medicine, No. 4, comprising:

S/2 of NE of Sec. 32, Twp. 29 North of Range 24 E.

N/2 SE " 32 " 29 " " 24 E.

NW SW " 33 " 29 " " 24 E.

200 Acres.

He is sole heir to the allotment of James Madison, Quapaw No. 5/4, comprising:

Lots 6 & NW of NE. Sec. 12, Twp. 28 North of Range 24 E.

Lot 4 " 29 " 29 " " 25 E.

79.87 acres.

All of the above described land has prospective mineral value, and some seven or eight concentrative mills have been erected thereon. However, owing to the decline in the price of zinc ore and high cost of production none of these mills have been producing.

He also has undivided inherited interests in the following allotments: A 1/12 inherited interest in Quapaw allotment 177/186, of Alexander Mudd deceased. A 1/12 interest in Quapaw allotment 89/90 of Buffalo Calf, deceased. A 1/24 interest in Quapaw allotment No. 92 of Thomas Buffalo, deceased.

1/6 interest in Quapaw allotment No. 6/5 of Joe Buffalo, deceased. These allotments are described above in the list of allotments inherited by Henry, Clara, Hazel, Nora, and Willie Buffalo. The restrictions should be continued on these lands on account of the fact that other heirs are incompetent and minors and on account of the mineral character of the land it cannot be partitioned.

Lizzie Cedar, No. 96/98; age 77; full blood. She is a full-blood Quapaw Indian, and has been a widow for some years. She lives by herself on the place of Benjamin Quapaw, a well-to-do old Indian of the Tribe. She still owns 200 acres of her land, located on the prairie and improved with an old box-house, fence, etc. About 110 acres of it is in cultivation. It is leased through the Agency for \$175 per year. Its value is about \$50 per acre. She has no other property or income, excepting a horse and buggy and some household furniture. She has no education and does not read, write or speak English. She has had no business experience, but is simply an average Indian woman of the old type. She is not competent to care for her property and business affairs. Her restrictions should be extended.

Her allotment No. 96/98 comprises:

SW of Sec. 25 and SE of SE Sec. 26 Twp. 29 North of Range 24 E.

200 acres.

Peter Clabber, No. 81. Age 72. Full-blood. Allottee was married five years ago to Minnie Greenback, a full-blood Quapaw woman, listed next below. He has no children. He lives on 40 acres of his own allotment two miles East of Lincolnville. He has a fairly good 4-room frame house, barn, shed, crib, smoke-house, root-cellar and well on the place, and it is quite a good old farm home though the buildings are rather old and cheap. He has 32 acres in cultivation here which he rents for a share of the crop, being too old to farm it himself. He has also 160 acres of his allotment on the prairie, nearly all of which is in cultivation. He rents it for \$1,000 per year. There are some old mines on this land but they are not being worked now. This land is worth \$100 per acre for agriculture and the 40 on which he lives is valued at \$50 per acre. He owns seven horses, one milch cow, four hogs, a wagon, hack, harness and some farm tools. He also has an interest as heir in some allotted land. He attended school just a little, but does not read or write English at all. He speaks it quite well and is quite an intelligent, well informed old man. He has been Tribal Chief for the Quapaws since the allotments were made in 1894. He lacks the necessary qualifications to handle his own business affairs safely and he requested that his restrictions be extended. He also requested as Chief for the Tribe, that such extensions be made for other full-blood Quapaws who are incapable of handling their own property and business affairs intelligently.

His own allotment No. 81 comprises:

S/2 of NE and N/2 of SE Sec. 1 Twp. 28 North of Range 23 E.

NW of SE " 6 " 28 24

200 Acres.

He also inherits a one-half interest in the allotment of Meh-het-tah Clabber, his deceased wife, which has been partitioned to him as follows:

Quapaw No. 82.

SE of NW and NE of SW Sec. 1 Twp. 28 North of Range 23 E.

SW of SE of " 6 28 " 24 E.

120 Acres.

He also inherits an undivided one-half interest in the allotment of John Thompson, described as follows:

Quapaw No. 83.

NE of NW of Section 2 Twp. 28, North of Range 23 E.

40 Acres.

Also inherits an undivided one-half interest in the allotment of Joseph Thompson, described as follows:

Quapaw No. 84.^B

SW of NW of Sec. 3 Twp. 28 North of Range 24 E.

40 Acres.

Also inherits an undivided one-fourth interest in the allotment of Willie Buffalo Thompson, described as follows:

Quapaw No. 226.

SE and SE of SW Sec. 24 Twp. 29 North of Range 24 E.

200 Acres.

Minnie Greenback, now Clabber, Nos. 12/12; Age 32; Full-blood. Allottee was married five years ago to Peter Clabber, a Quapaw. She has one son by her former marriage. She has 160 acres of her allotment located near Quapaw

in the mineralized belt. It has a 3-room frame house, barn and well on it and is fenced. About thirty acres is in cultivation and the balance is hay-land. She rents it for \$175 per year. There are two mills on the place, only one of which is in operation but the royalty income therefrom, is very small. It is not very valuable just now for mineral purposes. She attended the Quapaw Mission School 5 or 6 years, attaining the 4th grade. She reads and writes English a little, but not very well. She speaks it fairly well but she is not very bright and is not well informed. She is of the real Indian type in her ways and manner and she is not qualified to handle her property or business affairs successfully. She requested that her restrictions be extended. This should be done.

Her allotment No. 12/12 comprises:

S/2 of NW of Sec. 15 Twp. 29 North of Range 24 E.

NE " 26 26 23 E.

240 Acres.

Harry Crawfish, Nos. 97/99. Age 52. Full-blood. This allottee was married 17 years ago to a white woman and they have two children. Their home is on 40 acres of his own allotment 7 miles south of Baxter Springs. The place is improved with a good, new 7-room frame house, barn, garage, shed, electric lights and water systems, erected under the supervision of the agency. He still owns all of his allotment. There are valuable producing mines and mills on a portion of his land. His royalty income has averaged \$6,791.47 during the past six months. He owns considerable live stock, \$68,900 worth of Liberty bonds, and \$2,200 worth of War Savings stamps and he has \$53,847.10 in cash to his credit. He does not read or write English, although he speaks it fairly well. He is hardly of average intelligence and seems to lack force of character. He uses intoxicants to excess at nearly every opportunity and his appearance indicates that he has not taken very good care of himself. His property is very valuable and he is not properly fitted to take care of it and handle it himself. His restrictions should be extended.

His allotment Nos. 97/99, comprises:

NW of NE of sec. 27.

NE of SW " 33 Twp. 29 North of Range 24 E.

SE of SE " 17.

S/2 of NE " 21.

SE of SE " 20 Twp. 29 North of Range 23 E.

240 Acres.

This allottee also inherits an undivided one-third interest in the allotment of Widow Crawfish, described as follows:

Quapaw No. 94. N/2 of NE/4 of SW/4, and Lots 3 & 4 and SW of SE Sec. 31, Twp. 29 North of Range 24 E.

139.68 Acres.

Thomas Crawfish, Nos. 29/27. Age 59. Full-blood. Allottee is married to a Miami Indian woman who has sold all of her land. He sold 80 acres of his allotment and lives on the land he has remaining, 1 mile north of Lincolnville. He farms a few acres of it himself and the balance he rents for a share of the crops. It is nearly all in cultivation. He has quite a comfortable farm home and values his land at \$100 per acre. No mines are being worked on his land at present, they being closed down. He owns 3 horses, a cow and calf, a hack, 2 buggies, harness and a few farm tools. He attended the Quapaw Mission a short time and can read English just a little but he does not write. He speaks English fairly well and is a nice old man of the average intelligence of the old full-blood Indian. He is not qualified to handle his property safely and he requested an extension of his restrictions. This request should be granted.

His own allotment Nos. 29/27, comprises:

SE of NW & NW of SE & Lot 2 Sec. 31 Twp. 29 N. of Range 24 E.

119.68 Acres.

This allottee inherits an undivided one-third interest in the allotment of his deceased mother. Widow Crawfish, Quapaw No. 94, described above.

Mary Crawfish, now Skye, Nos. 224/28; age 27. Full-blood. Allottee was married 8 years ago to Clarence Skye, a full-blood Peoria, who has sold all of his allotment. They have one son. She sold 160 acres of her allotment herself, and has 80 acres remaining. It is improved with a good 4-room frame house, good barn and well. It is fenced and they formerly made it their home for 3 or 4 years but they moved off on account of her poor health. The improvements were paid for with money derived from the sale of his land. There is no mineral development on her land but it is a fairly good farm. She at-

tended boarding and day schools 8 or 10 years, attaining 8th grade. She is intelligent and quite well informed. She has but few of the ways of a full-blood Indian. Her husband is employed in the mines a part of the time, but is in poor health. They are making their home now with her parents. These young people have but little of their original allotments left and they are not qualified to take care of what she has remaining; The restrictions should be extended.

Her own allotment remaining, Nos. 224/28, comprises:

W/2 of NW of Sec. 8 Twp. 28 North of Range 24 E.

80 acres.

Francis Quapaw Goodeagle, No. 188; Age 65; Full-blood. Allottee was married a number of years ago to a full-blood Quapaw woman, who is listed next below. She is his second or third wife. He has 4 children, all of them allotted and grown up. He lives in a splendid brick residence in a very desirable location in Baxter Springs, Kansas, erected by his son, Charles Goodeagle. He still has his entire allotment of 240 acres. He has a royalty income from mineral leases averaging \$1146.76, the last six months. He has no English education and is able to speak English just a little. He understands it quite well. He is quite intelligent and fairly well posted, though of the real Indian type. Due to his entire lack of business ability he became heavily involved in business deals and building operations with white men, which after thorough investigation, resulted in the Department of Justice bringing suit in the Federal Court, and the same is still pending. Properties valued at approximately \$200,000 are involved. He has a balance of \$3664.23 to his credit under agency supervision. His properties are valuable and he is not deemed capable of handling the same successfully. His restrictions should be continued.

His allotment No. 188, comprises:

NW of NW & S/2 of NW & N/2 of SW Sec. 25 Twp. 29 N. of R. 22 E.

SW of SW " 5 " 28 " 24 E.

240 acres.

This allottee inherited and there has been partitioned to him, the following land, allotted to Quapaw allottee No. 182/197, Hah-win-nah-zhe Stanley, deceased, described as follows:

SE of SW of Sec. 6 and

NE of NW of " 7, Twp. 28 North of Range 24 E.

80 acres.

Wat-tah-nah-zhe Goodeagle, Nos. 174/189; Age 50; Full-blood. This allottee is the wife of Francis Quapaw Goodeagle, listed next above. They have been married for a number of years. She is a very nice appearing full-blood Indian woman but has no English education and speaks but very little English. They have a splendid city home which is well furnished and very neatly kept. She has her entire allotment of 240 acres still. The royalties from her mineral leases averaged \$905.22, during the past six months. She has a balance of \$5882.64 to her credit at the agency. She has no business experience and is just an ordinary type of the full-blood Indian woman. She is not capable of handling her valuable property and income successfully and with safety to herself. It is felt that her restrictions should, by all means, be extended.

Her own allotment No. 174/189, comprises:

SE of SE & W/2 of SE and E/2 of SW Sec. 1 Twp. 28 N of R. 22 E.

NW of SE " 18 " 29 " 25 E.

240 Acres.

This allottee also inherits an undivided one-fourth interest in the allotment of Kah-dah-ska-hun-ka Grandeagle, described as follows:

Quapaw Nos. 168/181.

W/2 of NW & W/2 of SW of Sec. 3

NW of NW " 10 Twp. 28 N. of Range 23 E.

NW of SE " 20 " 29 " 25 E.

240 Acres.

She also inherits an undivided one-eighth interest in the Allotment of Martha Grandeagle, described as follows:

Quapaw No. 173.

NE Sec. 2 Twp. 28 North of Range 22 E.

NW of SW " 3 " 28 24 E.

240 Acres.

She also inherits an undivided one-eighth interest in the allotment of Mary Grandeagle, described as follows:

Quapaw Nos. 172/184.

NE of SE Sec. 19 Twp. 29 North of Range 25 E.
 NE & NE of SE Sec. 4 Twp. 28 " 23 E.
 240 Acres.

She also inherits an undivided one-half interest in the allotment of Ruth Goodeagle, Quapaw No. 175/190, described above.

Khah-daah or Grandeagle, now Quapaw, Nos. 169/182; age 61; full-blood. Allottee is a widow and has no children living. She lives in a grove of timber on the allotment of one of her deceased children where she has a small, cheap 2-room box-house, a stable and well. She has 200 acres of her allotment and the land is improved with a 3-room house, barn and well. A part of the land is in cultivation and this is rented for \$150 per year. She never attended school and does not read, write or speak English. She is a real type of the old full-blood Indian and is hardly of average intelligence and is very poorly informed. She has a legal guardian, Horace B. Durant, of Miami, who attends to her business affairs for her, but said guardianship is to be relinquished and all her affairs are to be turned over to the Superintendent. She is not capable of handling her own property successfully and she should be protected by an extension of her restrictions.

Her own allotment No. 169/182, comprises:

E/2 SW and SW of SW Sec. 4

N/2 NW

" 9 Twp. 28 North of Range 23 E.

200 Acres.

The allottee inherits an undivided one-half interest in allotment of Meh-shah-bah-nah Grandeagle, described as follows:

Quapaw No. 171.

NW AND NW OF SW Sec. 4 Twp. 28 North of Range 23 E.

200 Acres.

She also inherits an undivided one-half interest in Allotment No. 168/181 of Kah-dah-sha-hun-ka Grandeagle, as described above.

She also inherits an undivided three-fourths interest in allotment No. 173 of Martha Grandeagle, described above.

She also inherits an undivided three-fourths interest in allotment No. 172/184 of Mary Grandeagle, described above.

Antoine Greenback, No. 10; age 68; full-blood. Allottee has been a widower for several years. He has six children, all of whom have an interest in inherited land. He still has his entire allotment of 240 acres and he lives on 40 acres of it. It is improved with a good 4-room bungalow house, quite well kept and furnished, a good barn and other outbuildings. The improvements were erected under the supervision of the Agency. His remaining 200 acres is located in three tracts and a part of it is rented for cash and a part of it on shares. He also has an interest in the 240 acres allotted to his wife, deceased, and he is an heir to a portion of three other allotments. From one of these has a royalty income from mineral lease which averaged \$1,408.29 the past six months. He has a balance of \$12,813.21 to his credit and he has \$6,500 worth of Liberty Bonds.

He attended school just a little but he does not read or write English, although he speaks it quite well. He is fairly intelligent but he lacks business experience and other qualifications necessary to handle his valuable property interests intelligently. He should be protected by an extension of his restrictions. This, he desires to have done.

His own allotment, No. 10, comprises:

SE of SE of Sec. 33

N/2 of SW " 15 Twp. 29 North of Range 24 E.

SW of SE of " 33 " 29 " 24 E.

240 Acres.

The allottee also inherits an undivided one-third interest in the allotment of Betsy Greenback, described as follows:

Quapaw No. 11/11.

SW Sec. 26 Twp. 29 North of Range 23 E.

SE of NE of " 26 " 29 " 23 E.

SW of SE of " 33 " 29 " 24 E.

240 Acres.

He also inherits an undivided one-third interest in the allotment of Julia Whitebird Greenback, Quapaw No. 26/23.

He also inherits an undivided two-ninths interest in the allotment of Magdalene Whitebird, Quapaw No. 26B.

He also inherits an undivided two-ninths interest in the allotment of Eudora Whitebird, Quapaw No. 27/24.

He also inherits an undivided one-third interest in the allotment of Lena Whitebird, Quapaw No. 24/21.

He also inherits an undivided one-ninth interest in the allotment of Joseph Whitebird, Quapaw No. 23/20.

The above allotments are described on the list of lands inherited by Lulu, May, Mary, Amy, Woodrow Wilson, John, and Alphonso Greenback.

He also inherits all of the allotment of Alice Greenback, described as follows: Quapaw No. 14/14.

SE of NW of Sec. 9 Twp. 28 North of Range 24 E.

SE & SE of NW " 26 " 29 " 28 E.

240 Acres.

Joseph Greenback, Nos. 13/13; Age 34; Full-blood. Allottee was married four years ago, to a white woman, his second wife. They live on his own allotment of 240 acres in one tract. It is improved with a good new 8-room bungalow house, well, and neatly fenced door-yard, etc. About 125 acres of the land is in cultivation and the balance is in timber and pasture. It is rented for cash but he does not know how much he gets. He is blind and is unable to work. He has a legal guardian, William Thomas. His first wife was an Osage allottee and he gets the shares of herself and child as Osage allottees, amounting to over \$18,000 the past year. He is not very well posted and he is not qualified to properly handle and care for his property himself. His restrictions should be extended.

His own allotment, No. 13/13, comprises:

SW of SW of Sec. 4 and SE of SE of Sec. 5

N/2 of NE of " 8

N/2 of NW " 9 Twp. 28 North of Range 24 E.

240 Acres.

The allottee inherits an undivided one-third interest in the allotment of Betsy Greenback, Quapaw No. 11/11 described above.

Ho-Gom-Me or Goodengle, Nos. 189/204; Age 60; Full-blood. Allottee is commonly known by the name of Mohawk. She had been married to John Mohawk, a full-blood Shawnee Indian, but they have been separated for some time and an application for divorce is now pending. She was formerly the wife of Francis Goodengle and she is the mother of Charles, Merton and Fannie Goodengle, all of them allotted and grown up. She lives on 40 acres of her own allotment where she has a fairly comfortable house. She has sold 80 acres of her allotment and has 160 acres remaining. A part of it is in cultivation and her income amounts to about \$100 a year. She never went to school and does not read or write English. She speaks just a very little. She is a real old type full-blood Indian, is poorly posted, has no business ability whatever and should be protected by an extension of her restrictions.

Her allotment No. 189/204, comprises:

NW of NE & S/2 of NE of Sec. 26 Twp. 29 N. of Range 22 E.

NW of SE " 5 " 28 " 24 E.

160 Acres.

She also inherits an undivided one-half interest in the allotment of her deceased daughter, Cha-dah-squle Goodengle, Nos. 190/206, comprising:

SW of SW of Sec. 25 Twp. 29 North of Range 22 E.

SW " 26 " 29 " 22 E.

SW of NE of " 18 " 29 " 22 E.

240 Acres.

Mis-kah-get-tah, Nos. 181/174. Age 67. Full-blood. Allottee is a full-blood Quapaw woman and is a widow. She has no children. She lives on a 2 acre tract of purchased land adjoining the home of Benjamin Quapaw. She has a good little 3-room frame house with porch, chicken-house, etc., all neatly painted and very comfortably furnished and well kept. She still owns her entire allotment of 240 acres. There are no buildings or improvements of any sort on the land and none of it is in cultivation. She rents it for hay and gets \$140 per year therefrom. There is no mineral on her land. She never attended school, does not speak English and is a real type of the old full-blood Indian. She has no business ability whatever and she is not qualified to handle her property and business affairs successfully herself. She should be protected by an extension of her restrictions.

Her own allotment No. 181/174, comprises:

NW of SW and NW of Sec. 1 Twp. 28 North of Range 22 E.

SE of NE " 18 " 29 " 22 E.

240 Acres.

This allottee inherits all of the allotment of Meh-het-tah-Spada, described as follows:

Quapaw No. 148/159.

SE of NE & Lots 1, 2, and 3 Sec. 15 29 22

Lot 2 " 17 Twp. 29 N. of Rng. 25 E.

65.29 Acres.

Amos Newhouse, Nos. 118/120. Age 73. Three-quarter blood. This allottee is an old bachelor. His present whereabouts are unknown. When last heard from he was in western Oklahoma or Kansas. It is stated that he is a Canadian Indian by birth but has affiliated with the Quapaws for many years. He still has his entire allotment of 240 acres which has fairly good farm buildings and is a quite good farm, bringing the owner a fair return. It is stated by those who know him well that he has some education and is quite an intelligent, well posted man, though very peculiar. A letter on file at the Agency clearly indicates that he is mentally unbalanced, at least at times, and it is very doubtful whether he is fully responsible or capable of taking care of his property successfully. He is a stone mason by trade and formerly earned good wages thereby. He has no known relatives. In view of all the circumstances and of his advanced age, it is felt that his restrictions should be extended.

His own allotment, No. 118/120, comprises:

S/2 of NW and N/2 of SW and NE of NW of Sec. 23.

SE of NE of Sec. 22 Twp. 29 North of Range 24 E.

240 Acres.

John Quapaw, Nos. 17/18. Age 71. Full-blood. Allottee is a full-blood Quapaw and was married 5 years ago to a full-blood Quapaw woman, listed next below, his second wife. He lives in a grove of timber on 40 acres of his deceased wife's allotment and 40 acres of his own land joins it. He has a fairly comfortable house of two or three rooms built of concrete blocks, also a stable and a well. The land is rough and only 5 acres of it is in cultivation. This he farms himself. He also has 240 acres of his own allotment, 200 acres joining the Townsite of Quapaw on the prairie. Part of this is used for Townsite and the land is leased for mineral but thus far there has been no production. The prospects, however, are thought to be good. He has no education and speaks very little English. He is not capable of handling his property successfully and his restrictions should be extended.

His own allotment Nos. 17/17, comprises:

NE of Sec. 34.

NW of NW of Sec. 35 Twp. 29 North of Range 23 E.

Lot 2 " 3 " 28 " 24 E.

240.78 Acres.

He also received by approved will from his deceased wife, Red Sun Quapaw, the following land:

Quapaw No. 18/18.

Lot 3 Sec. 3 Twp. 28 North of Range 24 E.

NE. of NW. of " 34 " 29 " 23 E.

80.42 Acres.

Nellie J. Ball, now Quapaw, Nos. 85/86. Age 62. Full-blood. This allottee is a full-blood Quapaw and is the wife of John Quapaw, listed next above. She has 1 child by her former husband. She sold 80 acres of her allotment and has 160 acres remaining. This is rough land and has only about 50 acres in cultivation, in patches. It is improved with a 2-room house, barn and poultry house. She rents it for a share of the crop. She thought it was worth from \$20 to \$30 per acre. She went to school just a little, but does not read, write or speak English much, though she understands it quite well. She has some horses and other live stock and also owns a wagon, buggy and some farm tools. She is a real Indian of the old type and has no business qualifications at all. She is not capable of handling her property herself, and she should be protected by an extension of her restrictions.

Her own allotment Nos. 85/86, comprises:

SE of NE and NE of SE of Sec. 8

SW of NW and NW of SW of Sec. 9 Twp. 28 North of Range 24 E.

160 Acres.

This allottee inherits an undivided 3/10 interest in the allotment of Charles Quapaw Blackhawk, Quapaw No. 1, described in the list of lands inherited by Beatrice C. Peters, now Shapp, and Juanita Alma Dawes.

Ta-mee-heh or Quapaw, Nos. 157/168. Age 56. Full-blood. Allottee is a full-blood Quapaw woman and is a widow. She has one daughter, Mrs. Ora Hampton, with whom she makes her home. She sold 40 acres of her land and has 200 acres remaining, located on the prairie North of Commerce. There are no buildings on it but it is fenced and 50 acres under cultivation. She rents it for \$175 per year. There is also some mineral development with one mill in operation and for the past four months the royalty has amounted to from \$300 to \$500 per month. This money has been used for the purchase of a 100 acre farm. She has no education and does not read or write English. She speaks it very little. It is thought her land will in time be very valuable for mineral production. She is an Indian woman of the old type and without any business experience, and has relied entirely on the help of her son-in-law to assist her in managing her business affairs. She should be protected by an extension of her restrictions.

Her own allotment Nos. 157/168, comprises:

NE of SE and NE of Sec. 36 Twp. 29 North of Range 22 E.

200 Acres.

This allottee inherits an undivided one-half interest in the allotment of Pius Quapaw, described as follows:

Quapaw No; 156/167.

W/2 of SE & SE of SE & E/2 of SW Sec. 36. Twp. 29 N. of R. 22E

200 Acres.

The remaining undivided one-half interest in this allotment was inherited by Ta-meh Quapaw, now Mrs. Ora Hampton, who has been recommended as competent but the restrictions on this land should be continued on account of the incompetency of Tah-mee-heh Quapaw.

She also inherits an undivided one-eighth in the allotment of Kah-dah-ska-hunka Grandeagle, Quapaw, No. 168/181, described above.

Also inherits an undivided one-sixteenth interest in allotment of Martha Grandeagle, Quapaw, No. 173, described above.

Also inherits an undivided one-sixteenth interest in allotment of Mary Grandeagle, Quapaw No. 172/184, described above.

Benjamin Quapaw, Nos. 159/170; age 62; full-blood. Allottee is a full-blood Quapaw Indian and is a widower. He lives on a part of his own allotment and has a good, complete well equipped farm home, including a large frame house, barn, garage, sheds, water system, etc. He still has his entire allotment of 231.34 acres. He has no education but speaks English fairly well, though brokenly. The property interests are very valuable, including the allotment of his deceased wife which has very valuable mines on it, the royalties from which have amounted to an average of \$4344.79 the past six months. His own income from two leases has averaged \$4672.34 the past six months for royalties. He also gets three-fourths of the income of his wife, deceased. He has \$12,982.72 to his credit at the Agency, and he also has \$25,000 worth of Liberty Bonds. His deceased wife's estate includes \$35,000 worth of Liberty Bonds and \$27,990.55 in cash, of which he inherits a 1/4 interest. He has had but little business experience and he is not at all qualified to handle his large and valuable property and income himself, with any degree of safety. His restrictions should without question be extended.

His own allotment, Nos. 159/170, comprises:

Lots 2, 3 and 4 and E/2 of SW Sec. 30 Twp. 29 N. of R. 23 E.

Lot 1 " 4 " 28 " 24 E.

288.24 Acres.

This allottee also inherits an undivided three-fourths interest in the allotment of Hun-bah-wat-tah Quapaw, Quapaw No. 161/172, described above.

Also inherits an undivided one-half interest in the allotment of See Sah Quapaw, Quapaw No. 160/171, described above.

Solomon Quapaw, Nos. 40/40. Age 52. Full-blood. Allottee is a full-blood Quapaw Indian and is married to a Miami Indian woman. He lives on the allotment of John Beaver in a cheap little box-house in a grove. He does very little work himself other than to care for a small garden. He has 120 acres of his allotment remaining, located on Spring River. It has a small house and an old barn on it and is fenced. Nearly all of it is in cultivation and he rents it for \$280 per year. He values it at \$40 per acre. He never attended school

and does not read or write English, but speaks it fairly well. He is an Indian of the old type and of about average intelligence. He owns two horses, cow and calf, a few hogs, a wagon, hack and harness. He has no business qualifications and is not capable of handling his property and business affairs successfully himself. His restrictions should be extended.

His own allotment Nos. 40/40, comprises:

SW of SW and N/2 of SW of Sec. 21 Twp. 29 N. of Range 24 E.
120 Acres.

Frances Quapaw now Gokey, Nos. 19/19. Age 32. Full-blood. Allottee was married 14 years ago to Jake Gokey, a white man, and they have three children. They live on her deceased mother's allotment. The buildings and surroundings are poor and indicate shiftlessness and lack of industry on the husband's part. The home is poorly furnished and kept. He farms about 50 acres of land on shares. She sold 16 acres of her land and has 224 acres remaining. It has 2 cheap old houses on it, a barn and a shed. It is fenced and partly cultivated. She rents it for \$200 per year. She attended Seneca Boarding School and Catholic Mission School about 4 years, attaining 3rd grade. She reads and writes English a little and speaks it fairly well. She is of about average intelligence of the full-blood Indian but lacks business ability. She is not capable of managing her affairs herself. Her husband is said to be a man of fairly good habits and quite industrious, but a poor manager. For the protection of her and her children her restrictions should be extended.

Her remaining allotment, Nos. 19/19, comprises:

NE and NE of SE of Sec. 35, Twp. 29 N. Range 24 E., and that part of Lot 3 of Sec. 4, Twp. 28 N., Range 24 E., lying south of Spring River.

224.16 Acres.

She also received by will from her mother, Red Sun Quapaw, Quapaw allottee No. 18/18, the SW of NW and NW of SW of Sec. 4, and SE of NE and NE of SE of Sec. 5, Twp. 28 N. of Range 24 E.

160 Acres.

Julia Stafford, now Shapp, Nos. 100/103. Age 49. Full-blood. Allottee is a full-blood Quapaw woman and was married 25 years ago to Peter Shapp, a full-blood Western Miami Indian. They have 7 children. They live on land inherited from her grandmother, near Lincolnville. They have a good 5-room frame house but it is poorly furnished and kept. He does a little farming on the place. She sold 80 acres of her land and has 160 acres remaining, joining the Townsite of Quapaw. Nearly all of it is in cultivation and she rents it for a share of the crops. There has been some mineral development on it but the work is shut down now. It has, however, considerable value as a mineral prospect. She attended Quapaw Mission School a short time, but does not read or write English now. She speaks it quite well and is fairly intelligent though she has but little force. Her husband is quite a shrewd trader and has some business ability but he is not thrifty, manages poorly and lacks industry. She is not capable of handling her property herself and she and her children should be protected by an extension of her restrictions.

Her own allotment Nos. 100/103, comprises:

W/2 of SE and E/8 of SW Sec. 35 Twp. 29 N. of R. 23 E.

160 Acres.

This allottee inherits all the allotment of Widow Stafford which is still restricted, described as follows:

Quapaw No. 99/102.

SE of NE of Sec. 6 Twp. 28 North of Range 24E.

SW. of SE of " 22 " 29 " 24E. (Less 1 A. for school site.)

79 Acres.

Hah-dah-ska-tun-ka, or Track, Nos. 142/153. Age 49. Full-blood. Allottee is a full-blood Quapaw Indian. He is commonly known by the name of Robert Thompson. He has been insane for a number of years and is an inmate of the Indian insane Asylum at Canton, South Dakota. He still has his entire allotment of 240 acres. He has valuable mineral land and his income from royalties have averaged \$2,200 a month the past six months. His accumulated royalties amount at this time to about \$50,000. He is, of course, incapable of handling his property and business affairs himself and the same should be protected by an extension of his restrictions.

His own allotment, Nos. 142/153, comprises:

NE of SE & NE Sec. 2 Twp. 28 North of Range 23 E.

SE of SW " 17 " 29 " 25 E.

240 Acres.

This allottee inherits an undivided one-third interest in the allotment of Sin-tah-hah-hah Track, described as follows:

Quapaw No. 143.

SE of NW & SW Sec. 17 Twp. 29 North of Range 23 E.

200 Acres.

He also inherits an undivided one-twelfth interest in the allotment of Ruth Goodeagle, Quapaw Nos. 175/190, described above.

He also inherits an undivided one-sixth interest in the allotment of Slim Jim, Quapaw Nos. 185/201, described above.

Mes-kah-tun-ka or track, now Slagle, Nos. 139/150. Age 40. Full-blood. Allottee is a full-blood Quapaw woman and was married in 1914 to Robert J. Slagle, a white man. She has three children by her former husband. She has sold 17.60 acres of her allotment and has 222.38 acres remaining. They live on 40 acres of her own allotment, improved with a good 4-room frame house and some out buildings. They have a good home, beautifully located on the banks of the Spring River. The balance of her land is near Quapaw and has some old cheap buildings on it. It is fenced and all under cultivation. She rents it for \$375 per year and values it at \$60 per acre. She does not read, write or speak English and is of the real old Indian type. She has an interest in valuable mineral lands as an heir, her royalty having averaged \$2200 per month the past six months. Her husband is much younger than she is, has little force and does very little work. He should not be trusted with the handling of her property and she is not capable of handling it herself, having no business experience and being hardly of average intelligence of the full-blood Indian woman. She should be protected by extending her restrictions.

Her own allotment Nos. 139/150, comprises:

S/2 of NE & Lots 1, 2 and 3 Sec. 11 Twp. 28 N. of Range 23 E.

NE of SW " 5 " 28 " 24 E.

222.38 Acres.

This allottee inherits an undivided two-thirds interest in the allotment of Netta Track, described as follows:

Quapaw No. 141.

NE of SW Sec. 9 Twp. 28 North of Range 24 E.

40 Acres.

She also inherits an undivided one-third interest in allotment of Sig dah Track, described as follows:

Quapaw No. 138/149.

SE of SW Sec. 5 Twp. 28 North of Range 24 E.

S/2 of SE & SE of SW " 2

N/2 of NE 11 " 28 " 23 E.

240 Acres.

She also inherits an undivided one-third interest in allotment of Sin-tah-hah-hah Track, No. 143, described above.

Also inherits an undivided one-twelfth interest in the allotment of Ruth Goodeagle, Quapaw No. 175/190, described above.

Also inherits an undivided one-sixth interest in the allotment of Slim Jim, Quapaw No. 185/201, described above.

Flora Young Greenback, now Whitebird. Nos. 164/176. Age 55. Full-blood. Allottee is a full-blood Quapaw woman and is a widow, her husband, Harry Whitebird, having died in December, 1919. She has two sons unallotted, also an adopted grand-daughter. Two of these children are but 12 years of age. She has sold a part of her allotment and has 79 acres remaining. It is prairie land and used for pasture. It is covered by a mining lease but it is not being operated now and she never got any royalty from it. It is thought to have considerable value as a mineral prospect. She lives on her deceased husband's property in the town of Quapaw. He had a mill on his allotment but it is shut down now. She attended school a short time but does not read or write English. She speaks it quite well and is fairly intelligent. However, she has no business experience. Her husband inherited some valuable mineral land with 13 mills on it and considerable royalty income. The average royalties have been over \$6,000 a year the past six years, 1/3 of which she receives by her husband's will. She has to her credit a balance of \$24,291.41, and Government bonds amounting to \$3,800. She is not capable of handling her property and business interests herself and she should be protected by an extension of her restrictions.

Her own allotment Nos. 164/176, comprises:

Lot 1 Sec. 5 Twp. 28 N. of Range 25 E.

NE of NW " 24 " 29 " 22 "

79.38 Acres.

This allottee inherits an undivided one-third interest, by will, in the allotment of her deceased husband, Harry Whitebird, described as follows:

Quapaw No. 25/22.

NE Sec. 35 Twp. 29 North of Range 23 E.

160 Acres.

She also inherits an undivided $\frac{1}{2}$ interest in Allotment No. 23/20 of Joseph Whitebird.

Also inherits an undivided one-sixth interest in Allotment No. 28/25 of Mary Whitebird.

Also an undivided one-twelfth interest in Allotment No. 27/24 of Eudora Whitebird.

Also an undivided one-twelfth interest in Allotment No. 268 of Magdalena Whitebird; all of which are described in the list of lands inherited by the six Greenback children.

And also inherits an undivided one-half interest in Allotment No. 166/178 of Walter Greenback.

Also an undivided five-twenty-fourths interest in Allotment No. 163/175 of Little Greenback.

Also an undivided five-eighths interest in allotment No. 185/177 of Kate Greenback.

Also an undivided one-fourth interest in allotment No. 167/180 of Andrew Greenback; all of which are described in the list of lands inherited by Alphons Greenback Whitebird.

An undivided nine-sixteenths interest in allotment No. 235/179 of David Greenback described in list of lands inherited by Alphonso Greenback.

James Xavier, Nos. 144/154. Age 61. Full-blood. Allottee is a full-blood Quapaw Indian and was married several years ago to a white woman. He has two children by a former marriage. He lives on 40 acres of his own allotment which is well improved with a substantial 4-room bungalow house with porches on 3 sides, a good barn, well and very neat door-yard. These improvements were made under the supervision of the Agency from money derived from the sale of some of his land. He has only 40 acres left. He is a one-third heir to about 400 acres of allotted land. He never attended school and does not read or write but he speaks English quite well. He is a fairly intelligent man but of the Old Indian type. He lacks business experience and should be protected in his property interests by extending his restrictions.

His allotment No. 144/154, comprises:

Lot 3 Sec. 5 Twp. 28 N. of Range 24 E.

39.70 Acres.

This allottee inherits an undivided one-third interest in the allotment of Mah-shing-sin-nah Xavier, described as follows:

Quapaw No. 145/155.

W/2 of NW; SE of NW; N/2 of SW Sec. 23, Twp. 29 N. of R. 22 E.

200 Acres.

He also inherits an undivided two-thirds interest in the allotment of Gladys Xavier, described as follows:

Quapaw No. 230/157.

SE of SW Sec. 33.

SW of " 33.

NE of SE " 34 Twp. 29 North of Range 24 E.

240 Acres.

Anna Xavier, now Collins, Nos. 146/156. Age 28. Full-blood. Allottee is a full-blood Quapaw woman and was married seven years ago to Peter Collins, a full-blood Tonkawa Indian, who is much older than she is. They have four children. She still has all of her allotment, except 9 acres, which was sold in 1914, and she has 229.98 acres remaining, located 2 miles west of Cardin. The place is improved with a good new 5-room frame house, a good barn, grainery and other buildings, making it a very good farm home. However, instead of living on the place and operating it themselves they have rented it out and are living in a little old box-shack on the open prairie on her mother's allotment, which joins her own on the North. She rents her cultivated land for \$200 per year and the haymeadow they take care of themselves by cutting the hay thereon with hired help. There is no mineral development on her land. The restric-

tions were removed unconditionally on 40 acres of her allotment on June 5, 1920. She still owns this tract but intends to sell it when she gets her price. She values it at \$200 per acre. Only 189.98 acres of her land is now restricted. They own a horse and buggy, a cow and calf, a few chickens, a wagon, hay baler, mower, etc. She has a 1/3 interest in the allotment of her mother, deceased. They also have 2 automobiles but it is thought both of them are being held by other parties for debts. She attended St. Mary's Mission School for several years and reads, writes and speaks English very well. She is fairly intelligent and quite well posted. The husband is a stout and able bodied man but lacks energy and seems to be a poor manager. He is thought to be about 50 years of age. From the showing made, these people are not deemed qualified to handle their own property and business affairs successfully, and it is thought that this allottee should be protected for a time, at least, by an extension of her restriction.

Her own allotment, No. 146/156, comprises:

SE of NE and E/2 of SE & lots 1, 2, 3, & 4, Sec. 22.

SW of SW of Sec. 23 Twp. 29 North of Range 22 E.

189.98 Acres.

This allottee inherits an undivided one-third interest in the allotment of Mah-shing-tah-nah Xavier, No. 145/155, described above.

She also inherits an undivided one-sixth interest in the allotment of Gladys Xavier, Quapaw No. 230/157, described above under James Xavier.

Wah-she-meh-tah-her Track, now Martha Track Quapaw, No. 152 B. Age 25. Full-blood. Allottee is a full-blood Quapaw woman married to Jesse Quapaw, a young full-blood Quapaw. They have three children, eight months, four, and five years of age. She received only the second allotment of 40 acres which is not very valuable. They live on 40 acres of inherited land, joining her own, where they have a comfortable little home, built under Agency supervision from heirship land sales. She has an undivided interest as heir in several allotments, which are not valuable for mining purposes. Both she and her husband read, write and speak English, having attended the lower grades of the Indian School, but neither have business ability nor experience enough to handle their own affairs successfully. The husband has but little force and lacks industry. Her restrictions should be extended.

Her allotment No. 152 B., comprises:

NE of NE of Sec. 7 Twp. 28 North of Range 24 E.

40 Acres.

She also inherits a one-half interest in the allotment of Meh-het-tah Clabber, which has been partitioned to her as follows:

Quapaw No. 82.

SW of NW & NW of SW Sec. 1 Twp. 28 North of Range 23 E.

SE of NE " 4 " 28 " 24 E.

120 acres.

She also inherits an undivided one-half interest in the allotment of John Thompson, deceased, Quapaw, No. 83, described above.

Also inherits an undivided one-half interest in the allotment of Joseph Thompson Quapaw No. 84 B, described above.

Also inherits an undivided one-fourth interest in the allotment of Willie Buffalo Thomson, Quapaw No. 226, described above.

Also inherits an undivided two-ninths interest in the allotment of Sig dah Track, No. 138/149, described above.

J. R. WISE,
Special Supervisor.

CARL F. MAYER,
Superintendent, Competency Commissioners.

QUAPAW INDIAN AGENCY, Miami, Oklahoma, January 8, 1921.

UNALLOTTED QUAPAW INDIANS WHO HAVE INHERITED ALLOTMENTS UPON WHICH THE RESTRICTIONS SHOULD BE EXTENDED.

Henry Buffalo. Age 24, full-blood Quapaw, married in fall of 1919; no children; attended school at Wyandotte and St. Mary's Catholic Mission through fourth grade; served in army in France; has meagre education; no business ability whatever to protect his own interests or care for his property.

Clara May Buffalo. Age 23, full-blood Quapaw, unmarried; attended Seneca and Chillico Indian Schools until 22 years of age; wholly without business ability and incapable of managing her business affairs.

Hazel L. Buffalo, now McDunner. Age 20; full-blood Quapaw; married to shiftless young white man; two children died in infancy; attended Wyandotte and Chillico Schools; both she and her husband without business ability, and incapable of handling their business affairs.

Nora Buffalo, now Brock. Age 18; full-blood Quapaw; returned from Chillico Indian School in spring of 1920; married Aug. 1920; wholly without business ability to manage her own business affairs.

William Buffalo. Age 17, full blood Quapaw; now attending Chillico school; in 5th grade; incompetent to manage his business affairs.

The above named Buffalo children have no allotments of their own, but inherit land as follows: A 1/12 interest each in Quapaw allotments No. 177 of Alexander Mudd, deceased, comprising the following restricted land:

SE/4 and SE/4 of SW/4 Section 23, Twp. 29 N. Range 22 E. 200 acres. This land is covered by a mining lease made June 23, 1913, to Paul A. Ewert, which was approved by the Interior Department December 11, 1917.

A 1/12 interest each in Quapaw allotments No. 89/90 of Buffalo Calf, deceased, comprising the following land: NE/4 Section 28, Twp 29 N. Range 23 E; SW/4 of SE/4 Sec. 32, Twp 29 N. Range 24 E; NE/4 of NE/4 Sec. 7. Twp. 28 N. Range 25 E, 240 Acres. NE/4 of Sec. 28 Twp 29 N. Range 23 E. has been developed for mining purposes, the New Chicago Mine being located on the south east forty acres. A mining lease has been made to the Eutopia Mining Company. The other two 40 acre tracts are probably not mineral land.

A 2/15 interest each in Quapaw allotment No. 22, of Boston Brown, deceased, comprising the following described land: E/2 SE/4 Sec. 34 & W 2 of SW/4 and SW/4 NW/4 Sec. 35 Twp. 29 N. Range 23 E, 200 acres.

A 1/24 interest each in Quapaw allotment No. 92/92 of Thomas Buffalo, deceased, comprising the following described land: NW/4 and NE/4 SW/4 Sec. 28 Twp 29 N R 23 E, SE/4 NE/4 Sec 7 Twp 28 N Range 25 E, 240 acres. The 200 acres in Section 28 is developed mineral land, the Midas, Missouri Mule, Federal, Forth Worth and Lenora mines being located on this land. Mining leases have been approved by the Department for ten years, from July 9, 1920, at 10% and 12½% royalty.

A 1/5 interest each in Quapaw allotments No. 20/6, of Sinnie Brown Buffalo, deceased, comprising the following land: E/2 NE/4, SW/4 NE/4, N/2 SE 4 Sec. 11, and SW/4 NW/4 Sec 12 Twp 28 N Range 24 E, 240 acres. This land has not been thoroughly tested for mineral and it has a prospective mineral value.

A 1/6 interest each in Quapaw allotment No. 6/5, of Joe Buffalo, deceased, comprising the following land: S/2 SW/4 and S/2 SE/4 Sec 22 and NW 4 NE/4 Sec 27 Twp 29 N Range 23 E, and NW/4 SW/4 Sec 22 Twp 29 N Range 24 E, 240 acres. There is an approved mining lease on the ground in Sec. 22 and 27, Twp 29 Range 23, but no mineral has been found in paying quantities. It has good mineral prospects.

Ruth DeHanas, formerly Ruth Buffalo nee Stevens. Age 26, a ½ blood Ottawa Indian; sole heir of John Buffalo, deceased, and now married to Jesse Dehanas, a white man; has one child born August, 1920. John Buffalo received no allotment, but inherited land which upon his death descended to his widow. She attended Haskell Institute for a number of years, is intelligent, educated and capable of managing her own affairs. She is sole heir to Quapaw allotment No. 91/93, of Frank Buffalo, deceased, and No. 21/94 of Alice Brown Buffalo, deceased, comprising 480 acres, upon which the restrictions should be allowed to expire.

She also has inherited interests with other minor heirs in lands upon which the restrictions should be extended, as follows:

A ½ interest in Quapaw allotment No. 90/91, of Mary J. Calf, deceased.

A ½ interest in Quapaw allotment No. 89/90, of Buffalo Calf, deceased.

A ½ interest in Quapaw allotment No. 22, of Boston Brown, deceased.

A ½ interest in Quapaw allotment No. 92, of Thomas Buffalo, deceased.

These allotments are described in the list of lands inherited by the Buffalo and Valliere heirs.

Clarissa Valliere Showalter. Age 22, is a Quapaw of ½ Indian blood; married to a white man; has a child 4 years old. Mrs. Showalter is well educated and competent to manage her own affairs. She received no allotment.

James Amos Valliere. Age 19, $\frac{1}{2}$ Indian blood; married; has child 2 years of age; reads, writes and speaks English, but never advanced very far in school. Is wholly incompetent to manage his own affairs.

Georgia Alice Valliere, now Hampton. Age 17, $\frac{1}{2}$ Indian blood, married in spring of 1920 to a mixed blood Eastern Shawnee Indian; attended St. Mary's Catholic Mission School and reads, writes and speaks English, but is wholly incompetent to transact business.

Flora Valliere, deceased. Died and left surviving her husband, Clarence Clemens, a young white man, and her mother, Lella Gregory, a white woman, who inherited her estate in equal shares.

The above Indians received no allotments but inherit the following lands: A $\frac{1}{4}$ interest each in Quapaw allotment No. 38/39 of George Valliere, deceased, comprising the SE/4 NW/4 Section 5 Twp 28 N Range 25 E., Lots 3 and 4 of Section 13 Twp 29 N. Range 23 E., Lots 4, 5 and 6 and SE/4 NW/4 and NE/4 SW/4 Section 6, Twp 28 N. Range 24 E., 240.04 acres. There is mineral in this land but it is not being now worked. The mill was recently removed on account of the low price of ore and high cost of operating.

These Indians have a $\frac{1}{6}$ interest each in Quapaw allotment No. 90/91 of Mary J. Calf, deceased, comprising the W/2 SW/4 Section 28, and E/2 SE/4 and NW/4 SE/4 Section 29 Twp 29 N. Range 23 E., and NW/4 NE/4 Section 7 Twp 28 N. Range 25 E., 240 acres. The 200 acres in Sections 28 and 29 is among the most valuable mineral land in this zinc and lead field, the Skelton Lead and Zinc Mining Company having a lease on this land, approved by the Department for ten years from July 9, 1920, at a royalty of 10% and 12-1/2%. There are minor incompetent heirs to this land and the restrictions should not be removed.

They also have a $\frac{2}{24}$ interest each in Quapaw allotment No. 92 of Thomas Buffalo, deceased, which has been heretofore described.

Iva Amelia Valliere; Age 14, $\frac{1}{4}$ Indian blood; wholly incompetent, now attending public school; she received no allotment of her own, but inherits a $\frac{2}{24}$ interest in the Thomas Buffalo allotment and a $\frac{1}{6}$ interest in the Mary J. Calf allotment, with the Valliere heirs named above. She also inherits a $\frac{2}{3}$ interest in Quapaw allotment No. 39/32 of Amos Valliere, deceased, comprising the following land: Lots 2 and 3 and W/2 NE/4 and E/2 NW/4 Section 8 Twp 28 N. Range 23 E., Lots 5, 6, 7 and 8 Section 9 Twp 28 N. Range 24 E., Lot 3 Section 14 Twp 29 N. Range 24 E., Lot 2 Section 29 Twp 29 N. Range 25 E., 242.11 acres.

All of the lands of the above Valliere heirs should have the restrictions extended for ten years, or until the youngest child becomes of age.

Jesse Daylight. Age 20, full blood Quapaw.

Clayton C. Daylight. Age 8, full blood Quapaw.

Emma Louise Blansett. Age 13, one-half Indian, Quapaw.

The above children inherit the following described land:

Quapaw allotment No. 11/11 of Betsey Greenback, deceased, comprising the SW/4 of Section 26 Twp 29 N. Range 23 E., SE/4 NE/4 Section 16, and SW/4 SE/4 Section 22 Twp 29 N. Range 24 E., 240 acres. (Joseph Greenback and Antoine Greenback, both incompetent allottees, inherit a $\frac{1}{3}$ interest each in above described land).

Quapaw allotment No. 15/15 of Isaac Daylight, deceased, comprising the S/2 SW/4 and SW/4 SE/4 Section 15 Twp 29 N. Range 24 E., W/2 NW/4 and NE/4 NW/4 Section 26 Twp 29 N. Range 23 E., 240 acres.

Also an interest in Quapaw allotment No. 95/97 of Fannie Crawfish Blansett by will, which will is being contested by Mike Blansett, widower of the allottee. The suit is now pending in the U. S. Supreme Court. Allotment No. 95/97 comprises the SW/4, NE/4, NW/4 SE/4, and NE/4 SW/4 Section 8 Twp 28 N. Range 24, and NW/4 SE/4 and N/2 SW/4 Section 2 Twp 28 N. Range 23 E., 240 acres.

The restrictions on the above land should be extended until these children reach their majority.

Alphonso Greenback, Jr. Age 19, full blood Quapaw; married December, 1919; no children; speaks, reads and writes English; no business ability.

Lulu May Greenback. Age 13, full blood Quapaw.

Mary Mollie Greenback. Age 11, full blood Quapaw.

Amy Greenback. Age 15, full blood Quapaw.

Woodrow Wilson Greenback. Age 10, full blood Quapaw.

John Greenback. Age 8, full blood Quapaw.

The above Greenback minor children have no allotments of their own. Their father, Antoine Greenback, is an incompetent Indian 68 years of age, and in feeble health. They inherit valuable mineral lands as follows:

A 1/9 interest each in Quapaw allotment No. 23/23, of Julia Greenback Whitebird, deceased, comprising the SW/4 NE/4, S/2 NW/4, N/2 SW/4, and SW/4 SW/4 Section 29 Twp 29 N. Range 24 E., 240 acres.

A 7/108 interest each in Quapaw allotment No. 23/20 of Joseph Whitebird, deceased, comprising the S/2 NE/4, N/2 SE/4, SE/4 SE/4, Section 16 Twp 29 N. Range 23 E., SW/4 NE/4 Section 29 Twp 29 N. Range 25 E., 240 acres.

A 1/9 interest each in Quapaw allotment No. 24/21 of Lena Whitebird, deceased, comprising the SE/4 SE/4 Section 31, and N/2 NW/4, SE/4 SW/4 and NW/4 NE/4 Section 36, Twp 29 N. Range 24 E., 200 acres.

A 19/216 interest each in Quapaw allotment No. 27/24 of Eudora Whitebird, deceased, comprising the SW/4 SE/4 and SE/4 SW/4 Section 16, and N/2 NE/4 and NE/4 NW/4 Section 21, Twp 29 N. Range 23 E., and NW/4 SE/4 Section 29 Twp 29 N. Range 24 E., 240 acres.

A 19/216 interest each in Quapaw allotment No. 26 of Magdalena Whitebird, deceased, comprising the SW/4 NE/4 Section 36 Twp 28 N. Range 24 E., 40 acres.

A 1/12 interest each in Quapaw allotment No. 28/25 of Mary Whitebird, deceased, comprising the following: Lot 1, Section 17 Twp 29 N. Range 25 E., and Lots 1, 2, 3 and 4 and S/2 NW/4, N/2 SW/4 and SW/4 SW/4 Section 16 Twp 29 N. Range 23 E., 240 acres.

Alphonso Green-Back, Sr. Age 24, full blood Quapaw, married July, 1920. No children. Reads, writes and speaks English. Wholly incompetent to manage his business affairs. He received no allotment, but inherits lands as follows:

A 7/16 interest in Quapaw allotment No. 235/179 of David Greenback, deceased, comprising the following land: Lots 6, 7 and 8 and NE/4 NE/4 and S/2 NE/4 Section 8 and SE/4 NE/4 Section 5 Twp 28 N. Range 25 E., 241.79 acres.

A 1/2 interest in Quapaw allotment No. 166/178 of Walter Greenback, deceased, comprising the SE/4 NW/4, W/2 SE/4, E/2 SW/4 and SW/4 NE/4 Section 4 Twp 28 N. Range 24 E., 240 acres.

A 19/24 interest in Quapaw allotment No. 163/175 of Little Greenback, deceased, comprising the NE/4 and NE/4 of SE/4 Section 24 Twp 29 N. Range 22 E., and Lot 2 Section 4 Twp 28 N. Range 24 E., 240.08 acres.

A 3/8 interest in Quapaw allotment No. 165/177 of Kate Greenback, deceased, comprising the NW/4 SE/4, S/2 SE/4, and S/2 SW/4 Section 24 Twp 29 N. Range 22 E., and Lot 2 Section 5 Twp 28 N. Range 25 E., 239.55 acres.

A 3/4 interest in Quapaw allotment No. 167/180 of Andrew Greenback, deceased, comprising the SW/4 NW/4 Section 17, Twp 29 N. Range 25 E., and SE/4 NW/4, NE/4 of SW/4 and N/2 of SE/4 of SW/4 Section 34 Twp 29 N. Range 23 E., 140 acres.

Beatrice C. Peters, now Shapp. Age 17 years, one-half Indian blood; married to full blood Miami Indian. Incompetent to manage her business affairs.

Juanita Alma Dawes. Age 2½ years. Half sister to Beatrice C. Peters.

These Peters children had no allotments of their own but inherit valuable mineral land as follows:

A ½ interest each in Quapaw allotment No. 87/88 of their mother, Minnie Ball Peters Dawes, deceased, comprising the S/2 SE/4 Section 14 Twp 29 N. Range 23 E., and NW/4 SE/4 Section 26 Twp 29 N. Range 24 E., and SE/4 NW/4 Section 32 Twp 29 N. Range 25 E., 160 acres.

A ¼ interest respectively in Quapaw allotment No. 1 of Charles Quapaw Blackhawk, deceased, comprising the NW/4 and NW/4 SW/4 Section 32 Twp 29 N. Range 24 E., 200 acres.

Also an undivided ½ interest each in Quapaw allotment No. 94 of Widow Crawfish, described in the list of allotments inherited by Harry Crawfish.

Agnes Track. Age 22 years; unmarried; mother of infant born June, 1920. Incompetent to manage her own affairs. Speaks, reads and writes English. Received no allotment of her own, but inherited land as follows:

A ¾ interest in Quapaw allotment No. 138-149 of Sig-dah Track, described in the list of land inherited by Mes-kah-tun-kah.

Dennis Wilson, Erwin Wilson, Martin Wilson, Mary Wilson, Louise Wilson. The above named children are all minor grandchildren of Mah-hun-kah-zhe-ka Beaver, and are incompetent. The youngest child is about five years old. They

inherit undivided interests in their deceased mother's allotment, Laura Jenny Zheka, Quapaw No. 180/196, described as follows:

SW/4 NE/4 and S/2 NW/4 and E/2 SW/4 and Lots 2, 3 and 4, Section 13 Twp 29 N. Range 22 E., and Lot 2 Section 14 Twp 29 N. Range 24 E., 240.44 acres.

Their grandmother recently purchased, through the Indian Office, the father's inherited interest for the two younger children, Mary and Louise.

Robert A. Whitebird, age 8; Helen Irene Whitebird, age 8. By approved will of Harry Whitebird, deceased, his son Robert and granddaughter Helene, receive an undivided $\frac{1}{2}$ interest in his estate, consisting of his allotments No. 25/22, an undivided $\frac{1}{2}$ interest in the allotments of Joseph Whitebird, No. 23/20, an undivided interest ($\frac{1}{2}$) in the allotment of Magdalena Whitebird, No. 26B, and of Eudora Whitebird No. 27/24, an undivided $\frac{1}{2}$ interest in the allotment of Mary Whitebird, No. 28/25, all of which have been described above.

Thomas Xavier. Age 15. This boy is a minor, son of James Xavier, and the restrictions should be extended on his inherited land.

He has an undivided $\frac{1}{2}$ interest in allotment No. 145/155 of Mah-shing-tah-nah Xavier, an undivided $\frac{1}{2}$ interest in allotment No. 230/157 of Gladys Xavier, both described in the list of land inherited by James Xavier.

Elnora Quapaw. Age 13, full blood, daughter of Newaukis Ta-meh, or Mrs. Ora Hampton, who has been recommended as competent to have her restrictions expire. By a will executed April 1st, 1914, Plus Quapaw, deceased Quapaw allottee No. 156/167, bequeathed 40 acres of his allotment to his minor grandchild, Elnora Quapaw, who received no allotment of her own. The will was approved by the Secretary of the Interior in his determination of the heirs of Plus Quapaw on April 7, 1915. This is the forty acres upon which the home of Mrs. Ora Hampton, the child's mother, referred to in the report on Mrs. Hampton, is located. On account of the minority of this child, and to carry out the purpose and intent of the will, the restrictions should be extended. The forty acres willed to Elnora Quapaw is Quapaw Allotment No. 167, comprising the SE/4 of NW/4 Section 5 Twp 28 N. Range 24 E., 40 acres.

QUAPAW LAND INHERITED BY OSAGE INDIAN.

Lucy Lottson Beaver. Mrs Beaver is a full-blood Osage Indian woman about 45 years of age. She reads, writes and speaks English and is fairly intelligent. She was married to Robert Lottson, Quapaw allottee No. 153/164, who died June 24, 1907. She has no children. She received three share of Osage oil payments and large royalties from mines on her deceased husband's Quapaw lands. These royalties are handled as trust funds by the Quapaw Agency, she having been declared incompetent by the Secretary of the Interior on April 30, 1919 under the provisions of the Act of June 7, 1897, (30 Stats., L 62, 72). There is a balance in her bank account at the Agency of \$61,696.68. Before she was declared incompetent her royalties as well as the Osage oil payments were made to her and were largely wasted. She made some investments but investigation shows that she had to rely upon the judgment and advice of white persons and the Quapaw Agency was compelled to clear up the title to some of the lands purchased by her after taking charge of her mineral royalties. She is without the business ability or experience to handle her large business affairs and the restrictions on her inherited land should be extended notwithstanding she is a member of the Osage tribe and not a Quapaw Indian. She is sole heir to Robert Lottson's estate, comprising the following described land:

Quapaw allotment Nos. 153/164, of Robert Lottson, deceased—Lots 3 and 4, and E/2 SW/4 Sec. 19, and Lot 1, Sec. 30, Twp. 29 North of Range 23 E, and SW/4 NE/4 Sec. 17, Twp. 29 North of Range 25 E.,

Quapaw allotment No. 186, of General Harrison, deceased—Lots 1 and 2, Sec. 2, Twp. 28 North of Range 22 E.

304.38 Acres.

J. R. WISE,
Special Supervisor.
CARL F. MAYER,

Superintendent Competency Commissioners.

QUAPAW INDIAN AGENCY,
Miami, Oklahoma, January 8, 1921.

COMPETENCY COMMISSION REPORT, QUAPAW AGENCY—LIST OF LIVING COMPETENT QUAPAW ALLOTTEES.

Alexander Cardin, allot. Nos. 215/230. Age 50. 1/4 Blood. Allottee is married and is now living in Independence, Missouri. He has been living in Parsons, Kansas, for some years and has been employed by the M. K. & T. Railroad as an inspector. He belongs to a splendid family, has a fairly good education and is practically a white man. He has sold all of his allotment but 40 acres and this is rough and of but small value. He is a man of wide experience and good business ability. There is no need, whatever, for supervising his business affairs.

Wm. Frederic Cardin, allot. No. 231. Age 25. 1/8 Blood. Allottee is single and travels as an entertainer on Chautauqua Circuit as a musician. He attended the Carlisle Indian School, among others, and has a very good education in addition to his musical training in special schools. His allotment comprises but 40 acres and is rough land and is of but small value. He is the son of Alexander Cardin, listed next above. He is a young man of fine address, bright, well posted and to all intents a white person. He needs no supervision.

Louis La Fountaine Cardin, Nos. 216/226. Age 45. 1/16 Blood. Allottee lives in Baxter Springs, where he has a splendid home, and he is president of the American National Bank, there. He is a man of good address, well educated, comes of an excellent family and is practically white. He has had a large income from mineral royalties for some years, has extensive property interests and is reputed to be wealthy. He is a capable business man and of course, requires no supervision of his business affairs or property. He still has his entire 240 acres.

Mary Dardenne Clark, Nos. 109/113. Age 55. 1/16 Blood. Allottee was married 30 years ago to Jasper N. Clark, a white man and they have 8 children. They live 4 miles south of Baxter Springs on 200 acres of her own allotment. They have a good farm home and a well improved farm which they cultivate themselves. They have no mineral development. She has a fair education and is intelligent and sensible. She is practically white and is well able to take care of her own property. She needs no further supervision. She still has her entire allotment of 239.84 acres. Extension of her restrictions is not necessary.

Wm. Alex. Clark, No. 115. Age 26. 1/32 Blood. Allottee is married to a white woman, has a good common school education and is an intelligent, well posted man. He lives on a part of his mother's allotment and is farming about 75 acres of land on shares. He has but 40 acres of his own allotment which is rough land and not of much value. He has considerable live stock and is fairly prosperous as a farmer. He needs no supervision of his property and business affairs.

Lillie May Clark, now Wheeler, Nos. 236/114. Age 27. 1/32 Blood. Allottee has been married 10 years to Chauncey Wheeler, a white man. They have a neat little home of their own in the country and the husband is employed in the mines at good wages. She sold 89 acres of her allotment and still has 151 acres, located on the East end of the reservation and is rough land. They formerly lived on it and farmed it. She now rents it for \$50 per year and values it at \$10 an acre. She has a good common school education and is a bright, well posted young woman. She is practically white and needs no supervision of her property.

Benjamin Cousatte, Nos. 197/210. Age 65. 1/16 Blood. Allottee lives on 40 acres of the allotment of his first wife, deceased, and has a fairly comfortable little farm home. He farms 20 acres of land himself, here. He is now married to a white woman. He has 5 children, four of them allotted. He never attended school but reads English well, writes some and is a very intelligent, well posted man. He has some live stock and is quite comfortably fixed. He still owns 80 acres of his allotment which is fairly well improved and is farmed by his son. There is no mineral on it. He is well able to handle his business affairs and there is no need, whatever, for further supervision. He is practically a white man, of more than average native ability. He raised a fine family of young men and women, enumerated below, all of them capable, progressive, and of good habits.

Joseph M. Cousatte, Nos. 204/215. Age 26. 1/32 Blood. Allottee is married to a white woman and he lives on 160 acres of his own allotment. His buildings are poor but he is now arranging to erect a good house. He farms his land himself and has considerable live stock and farm equipment. He has a good

common school education and is intelligent, well posted and capable. He has all the necessary qualifications to care for his property without supervision. An extension of his restrictions is not necessary.

Martin L. Cousatte, No. 216. Age 25. 1/32nd Blood. Allottee is married to a white woman and he lives on his father's allotment which he is farming on shares with his father. He has only 40 acres of his own allotment. Of this, 6 acres is in cultivation and he farms it himself. He has a good common school education and is a bright, intelligent, well posted young man, above average for a young man who grew up in the country. He has considerable live stock and farm equipment. He is well able to handle his own business affairs and property without supervision. An extension of his restrictions is not necessary.

Benjamin C. Cousatte, Nos. 202/213. Age 31. 1/8th Blood. Allottee is married to a white woman and lives on his own allotment of 120 acres, 8 miles Southeast of Baxter Springs. He has a good farm home, including a 4-room frame house, barn, sheds, etc. He farms all his land himself. He sold 120 acres of his allotment. He has considerable live stock and good farm equipment and is an average well-to-do farmer. He has a good common school education and is intelligent, sensible and well informed. He does not require any supervision of his property and business affairs. An extension of his restrictions is not necessary.

Rosa E. Cousatte, now Wheeler, Nos. 208/214. Age 28. 1/16th Blood. Allottee was married 12 years ago to Edwin F. Wheeler, a white man. They live on 80 acres of her own allotment, 9 miles southeast of Baxter Springs and they have a good, well improved farm house, barn, stables, sheds, all neatly painted. The husband farms the place himself. She has sold 160 acres of her allotment. There is no mineral development on her land. They have considerable live stock and some farm equipment. The husband was employed in the shipyards during the war and is an excellent mechanic. She has a good common school education and is bright, intelligent and well posted. She does not require supervision of her property and business affairs.

Ira Wright Cousatte, Nos. 234/133. Age 26. 1/16th Blood. Allottee is a single man and makes his home with his sister, Jessie M. Gilmore. He is employed in the mines earning \$5 to \$6 per day. He sold 200 acres of his allotment for \$2500 and still has the money to his credit in bank. He is said to be steady, thrifty and intelligent. He still owns 40 acres of his allotment which is rough land and not very valuable. He is well able to take care of himself and his property and needs no further supervision. An extension of his restrictions is not necessary.

Effie Imbeau, now Crane, Nos. 57/58. Age 39. 1/32nd Blood. Allottee was married 23 years ago to Dayotis Crane, a white man, and they have 9 children. They live on a good purchased farm of 80 acres, bought last spring, 6 miles North of Baxter Springs, Kansas. They have a very good farm home, though the buildings are old. She sold 40 acres of her allotment and still owns 200 acres, which has valuable mineral production, being in the heart of the mining district. Her royalty last year amounted to \$29,000. She is a sensible, intelligent woman with a fair education and she and her husband are well able to care for their valuable property and business affairs. No good reason exists for continuing supervision of her property, and an extension of her restrictions is unnecessary.

Jessie May Cousatte, now Gilmore, Nos. 124/132. Age 28. 1/16th Blood. Allottee was married 8 years ago to Grover N. Gilmore, a white man. They live on 87 acres of her allotment, near Hockerville. They have a good, new 4-room bungalow house, an old barn and about 50 acres of cultivated land. She rents it for crop shares, her husband being employed in the mines, earning from \$5 to \$6.25 per day. She attended public school and boarding schools, attaining 9th grade. She is intelligent, well informed, of good appearance and makes a favorable impression as to her capability. She requires no further supervision. An extension in her case is unnecessary.

Frances Douthat, Nos. 113/121. Age 59. 3/8 Blood. Allottee was married 41 years ago to Morton Douthat, a white man, and they have 5 children, 4 of them allotted. They live 2 miles Northeast of Commerce on her own allotment of 239.62 acres, all in one body. They have a splendid 8-room frame house with porches, all neatly painted and well furnished; also good barns, shed, orchard, etc. The most of the land is in haymeadow. She has no mineral production though her land is right on the edge of a very rich field. They are very com-

fortably fixed, financially. She attended school in Indiana and reads and writes and speaks English well. She is a fine lady, sensible and above average intelligence, and has raised a fine family of young men and women, listed below, all of them capable, intelligent and splendid people. They have considerable stock and they are well able to handle their own property and business affairs. She is said to be a part-blood Miami Indian, adopted into the Quapaw Tribe.

Sarah A. Douthat, Nos. 117/125. Age 28. 3/16th Blood. Allottee is a single woman and makes her home with her parents, Mr. and Mrs. Morton Douthat, near Commerce. She still has her entire allotment of 240 acres. Two hundred acres of it joins the home place on the East and is good prairie land. It is all fenced and nearly all of it is in cultivation but there are no buildings. She rents it for crop shares. There is no mineral development on her land although it is near the mineral belt. She values it at \$75 per acre. She has a highschool education and is bright, intelligent, refined and capable. She is well able to manage her own business affairs.

Charles A. Douthat, Nos. 116/124. Age 32. 3/16th Blood. Allottee is married to a white woman and has three children. He lives in Quapaw where he is president of the First National Bank. He sold 40 acres of his allotment and has 200 acres remaining. 160 acres of it joins his mother's on the North and there are no buildings or cultivation. It has producing mines on it and he has quite a large income from royalties. He is fixed very comfortably as regards property and funds. He is a good business man and is fully capable of handling his valuable property without supervision.

William B. Douthat, Nos. 112/118. Age 28. 3/16th Blood. Allottee was married 8 years ago to a white woman and has three children. They live in Baxter Springs in a good, new 5-room bungalow house which he owns. He sold 120 acres of his allotment and has 120 acres remaining, located in the mineral belt. There are two producing mills on it and he has recently received royalties amounting to over \$10,000. He has prospects for large productions. He has a good common school education, is well posted, intelligent and capable. He requires no supervision.

Minnie E. Douthat, now De Villiers, Nos. 115/123. Age 34. 3/16th Blood. Allottee was married 12 years ago, to Jack De Villiers, a white man, and they have three children. They live in Baxter Springs, in a good, new rented house. She still has all of her allotment of 239.30 acres. Two hundred acres of this is located near Century in the mineral belt, but there is no development on her land. She has a good 4-room frame house and barn on it and about 100 acres of the land is cultivated. She rents it for a share of the crops. She also has 40 acres of rough land from which she gets no income. She graduated from a convent in Joplin, and has a good education. She is refined, intelligent and of good appearance. Her husband is employed in a lumber yard and seems to be capable and substantial. She is fully capable of handling her own property and requires no further supervision.

Zahn A. Douthat, Nos. 114/122. Age 37. 3/16th Blood. Allottee is married to a white woman and has three children. They live in Kansas ten miles Southeast of Chetopa, where he owns a farm of 800 acres. He still has his entire allotment of 231.26 acres. Two hundred acres of this is in the mineral belt and takes in the town of Douthat. There are seven producing mines and mills on it and he is said to have an income of more than \$10,000 per month, and he paid an income tax of about \$35,000 last year. He owns over 1100 acres of land besides other property. He is a capable, conservative business man and fully qualified to handle his own business affairs without supervision.

Katie Logan Dyson, Nos. 120/127. Age 48. Adopted White. Allottee was brought up in the home of William and Margaret Logan, the former a white man and the latter a half-blood Quapaw. She was a white girl and was adopted into the tribe together with her children through Mr. and Mrs. Logan. She was married over 30 years ago to Daniel H. Dyson, a white man. They live on her own allotment 9 miles Southeast of Baxter Springs, where they have a fairly good farm home and 200 acres of her allotment. She has 9 children living, 3 of them allotted as Quapaws. She has a fair education and is a fairly intelligent woman, about the average white woman living in the country. There is no mineral development on her land. She is capable of handling it herself and no reason, whatever, exists for retaining supervision over it.

Daniel H. Dyson, Nos. 122/129. Age 27. Adopted White. Allottee is living somewhere in Western Kansas, but his address was not known by his mother or sister. He is married to a white woman. We were informed that

he had sold all of his allotted land, although according to the Agency records, his restrictions have not been removed. He is said to be a man of average intelligence and capability and has a common school education. There is, of course, no good reason for continuing the restrictions on his land.

Frances Lavena Dyson, now Crabtree, No. 130. Age 26. Adopted White. Allottee was married six years ago to Ben D. Crabtree, a white man and they have three children. They live on a rented farm 7 miles South of Baxter Springs. She had but 40 acres allotted to her and she still owns it. It is rough land but is improved with buildings, fence, and has six acres in cultivation. She has a good common school education and is intelligent and capable. Her husband is also an intelligent man and a good worker. No reason whatever exists for continuing her restrictions.

Alice Crawfish, now Gilmore, Nos. 225/101. Age 26. Half-blood. Allottee was married 9 years ago to Homer C. Gilmore, a white man. They have 4 children. They live on 40 acres of her allotment, six miles Southeast of Baxter Springs where she has a good, new 3-room bungalow house in a grove. The house was built with money derived from the sale of a part of her allotment. She has sold all but this 40 acres which is rather rough and not of much value. Her husband is employed on the farm by her father. She attained 7th grade in school and is quite intelligent and fairly well posted. They have no stock or personal property other than an automobile, (Chevrolet). The husband is industrious and of good habits. He served in the U. S. Army during the recent war and is a man of good ability and business judgment. He is a good mechanic and well able to earn a good living for himself and family. These young people require no supervision of their business affairs and a further extension of the restrictions of this allottee is not required.

Agnes Dardenne Gilmore, Nos. 45/47. Age 43. 1/16th Blood. Allottee was married 27 years ago to Fred W. Gilmore, a white man and they have 3 children. They live in a good home in Baxter Springs. She sold 120 acres of her land and has 120 acres remaining, consisting of several small tracts. A part of it is improved but none of it is very valuable. She also has an interest in several tracts of inherited land, some of it having good prospect for mineral production. She has a good common school education and is a bright, intelligent, well informed woman. She comes from an excellent family and is practically a white woman. Her husband is intelligent and capable. She is well able to handle her own property and business and needs no supervision. An extension of her restrictions is wholly unnecessary.

Charles Goodeagle, Nos. 191/192. Age 34. Full-blood. Allottee was married several years ago to a Pawnee Indian woman and he now lives at Pawnee, Oklahoma. He formerly lived in Baxter Springs, Kansas, where he was actively engaged in business and building operations. He has sold all but 40 acres of his allotment. He attended the Seneca Boarding School and Haskell Institute nearly 16 years and has a very good common school education. He read law in Baxter for about two years in a law office. His property and business dealings are now involved in proceedings before the U. S. Court. He is a man of intelligence and good native ability and has had abundant business experience. He is fully qualified to handle his own affairs without supervision, and there is no necessity for an extension of his restrictions.

Merton Goodeagle or A-bu-ge-zhe, Nos. 192/193. Age 28. Full-blood. Allottee is married and is living at the present time in a rooming house in Baxter Springs, Kansas. He has sold 40 acres of his allotment and has 200 acres remaining. He attended reservation boarding school and Haskell Institute for a number of years, graduating from the business department in the latter. He is an intelligent young man, of good ability and has had extended contact with white men in a business way. He has no occupation at the present time and is doing little, if any, work. He is a young man of fine address, dresses well, and makes a very favorable impression as to capability. He is well qualified to handle his own property and business affairs successfully himself and an extension of his restrictions would not be justified. His allotment is in the mineral belt and he has some producing mines on the land which are now bringing him some royalty.

Levi Goodeagle, Nos. 222/191. Age 26. Full-blood. Allottee is a single man and makes his home with and works for, his parents, Mr. and Mrs. Frances Goodeagle, in Baxter Springs. He attended Seneca Boarding School, St. Mary's Mission and Haskell Institute, a total of 9 or 10 years, attaining 8th grade. He is quite an intelligent young man, dresses neatly and makes a favor-

able impression as to capability. He was in the U. S. Army two years, and in France one year. He still has all of his allotment embracing 240 acres. He knew very little about his land or the improvements thereon, having been away at school and in the army. He is very well qualified to handle his own business affairs, having a good education and extended contact with white business people. He has no dependents and is well able to make his own way and earn a good living for himself. An extension of his restrictions would not be warranted.

Fannie Goodeagle, now Richards, Nos. 193/205. Age 27. Full-blood. Allottee was married 4 years ago to Luther Richards, a white man, and they have 2 children. They live on the old Goodeagle homestead, allotted to her father, Francis Goodeagle. They have a good 10-room frame house here, well furnished and neatly kept, together with other farm buildings and equipment. Her husband farms 30 acres here. She still has her entire allotment of 240 acres located 3 miles west of Cardin. It is prairie land and rented for hay for \$600 a year. It is valued at \$50 per acre. She attended Seneca Boarding School and Haskell Institute nearly 12 years, attaining Senior grade in the commercial course. She is quite intelligent and very well informed, sensible and quite well posted. She and her husband own considerable live stock, farm implements, etc. The husband is quite a capable young man of good habits and is said to be industrious. She is capable of handling her own property intelligently and does not require supervision. An extension of her restrictions is not necessary.

Harry A. Gordon, Nos. 207/220. Age 32. $\frac{1}{2}$ th Blood. Allottee is a married man and now lives near Carthage, Missouri, on a 500 acre farm which he recently bought, paying about \$55,000 for it. He procured an unconditional removal of restrictions on 200 acres of his allotment and sold it before making this purchase. He has only 40 acres of his own allotment remaining. He is a man of good intelligence and comes of a family of capable men and women, somewhat above the average as to intelligence and force of character. He has a fair common school education and has had extended business experience in handling lands, properties and money. He is fully competent to manage his own property and does not require supervision any longer. An extension of his restrictions is unnecessary.

Harvey O. Gordon, Nos. 208/221. Age 34. $\frac{1}{2}$ th Blood. Allottee is married to a white woman and they have 2 children. They live in their own home in Miami, a fine new 6-room bungalow house in a desirable location. He had the restrictions removed from 50 acres of his allotment but he still owns it together with the remainder of his land, about 240 acres in all. It is improved with a house and barn and all but 80 acres is in cultivation. There is a producing mine on it and he now has a good royalty income. The prospects for a large production are excellent. The town of Monarch is located on his land. He has a good common school education and is well posted, intelligent and of good business ability. He also owns a house and lot in Commerce. He is well qualified to handle his property without supervision. He is practically a white man. An extension of his restrictions is wholly unnecessary.

Sarah E. Gordon, now McBee, Nos. 209/222. Age 30. $\frac{1}{2}$ th Blood. Allottee was married 11 years ago to Hiram R. McBee, a white man, and they have 6 children. They live in Miami in a splendid new brick residence, elegantly furnished and with fine grounds. She still has all of her allotment of 240 acres. It is in the heart of the mineral belt and has 4 or 5 producing mines on it. Her property is rich in mineral and her royalty income is large. Besides the properties above mentioned she also owns a fine country home with 30 acres of land, a half mile North of Miami. She attended public schools 7 or 8 years and has a fair common school education. She is quite intelligent and sensible. Her husband is a good business man and assists in managing her valuable property interests. She is very well qualified to care for her valuable property. An extension of her restrictions is unnecessary.

Harley E. Gordon, Nos. 210/223. Age 29. $\frac{1}{2}$ th Blood. Allottee was married to a white woman 7 years ago. He has 2 children. He sold 160 acres of his allotment and has 80 acres left, 10 miles South of Baxter. He has an application now pending for the removal of restrictions, unconditionally, on this remaining 80 acres. It is improved with house, barn, well, fences and 35 acres in cultivation. He rents it for \$75 per year. He has a common school education, comes of a good family and is intelligent and well informed. He is employed as a driller in the mining fields. He is well able to care for

his family and his property and requires no supervision. An extension of his restrictions is not necessary.

Bessie Gordon, now Elliott, No. 224. Age 26. 1/4th Blood. Allottee is married to a white man who got into trouble during the past year and has left for "parts unknown." His wife is thought to be with him as none of her brothers and sisters knew where she was. Her allotment comprised but 40 acres and is rough land and not of much value. She is said to have a good common school education and to be bright and capable. She belongs to a family of very intelligent people and she has had extended contact with progressive folks and is well able to take care of her own affairs. There is no need for further supervision, and her restrictions need not be extended.

Victor Griffin, Nos. 101/104. Age 41. Full-blood. Allottee is married, his wife being listed next below. They have 5 children. They live in their own home in Baxter Springs, having a good 7-room frame house, barn, etc., desirably located. He paid \$1,050 for it and it is now worth \$4,000. He sold 120 acres of his allotment and has 120 acres left. It is improved with farm buildings, fence and 60 acres of it is cultivated. He rents it for \$240 a year. He also has an interest in 240 acres of inherited land. He attended school 10 or 12 years, attaining 8th grade. He acts as interpreter for his Tribe and is intelligent and well informed. He asked to have his restrictions extended but with his education and experience he is very well qualified to handle his property himself and an extension of his restrictions would not be justified.

Meh-ska-na-bah-nah or Track, Nos. 140/151. Age 34. Full-blood. Allottee was married 10 years ago to Victor Griffin, listed next above, and is now known by the name of Minnie Griffin. She has sold a part of her allotment and has 120 acres remaining. There are no improvements on same but 60 acres is in cultivation and she rents it for \$320 per year. There has been no mineral development. Forty acres of her land is rough and brings her no income. She attended Quapaw Mission School 3 years and attained 3rd grade. She reads and writes English, speaks it well and is quite intelligent and above the average full-blood Indian. She has evidently associated with progressive white people a great deal. An extension of her restrictions would not be justified.

Lara Dardenne, now Hodgkins, Nos. 108/110. Age 37. 1/8 Blood. Allottee was married 18 years ago to Leonard D. Hodgkins, a white man. They have 3 sons. They have an excellent small farm home 1 mile Northwest of Baxter Springs, in Kansas, which they bought three years ago. She sold 80 acres of her allotment and has 160 acres remaining. She also owns 40 acres inherited from her father. She is a very bright, well posted, intelligent woman, refined and nice appearing. She is thoroughly capable of handling her own property and business affairs and requires no supervision. Extension of her restrictions is not necessary.

Harvey Imbeau, Nos. 58/59. Age 39. 1/32nd blood. Allottee was married 15 years ago to a white woman, and they have 2 children. They live in their own home in Baxter Springs, consisting of a good 8-room frame house, barn and 2 lots, valued at \$4,000. He still has his entire allotment of 240 acres, located in the mineral belt. A shaft has been sunk on it but there has been no production yet. There are some old farm buildings thereon and 40 acres of it is in cultivation. He lived on it until a year ago. He rents it now for two-thirds of the crop, he furnishing all the equipment. He has a good common school education and is a well posted man of good business judgment and experience. He owns considerable live stock, farm equipment, an automobile, \$800 worth of Liberty Bonds and a drilling outfit. He is well able to handle his own business and needs no supervision. He is practically a white man. An extension of his restrictions is not necessary.

Frank Imbeau, Nos. 59-60. Age 36. 1/32nd blood. Allottee was married 4 years ago to a white woman, has 2 children, and lives in his own home in Baxter Springs, consisting of an 8-room frame house, barn, and 4 lots, centrally located. He bought it last year for \$6500, after selling 40 acres of his allotment. He still has 160 acres of his land located in the mineral belt. The prospects for production are good but the mill is not yet completed. He has a good common school education and is quite a well posted, capable man, although he is said to be a poor manager and free with his money. His habits are said to be rather poor and he does not do much work. He is practically a white man, however, and with his education he is well able to handle his own affairs. An extension of his restrictions would not be justified.

Felicia M. Cardin, now Kenoyer, Nos. 217/223. Age 39. 1/16th blood. Allottee has been married 20 years to Sam. A. Kenoyer, a white man. She comes of

an excellent, capable family, is well educated, refined, well informed and makes an excellent impression as to business ability. She has valuable property interests. They live in a splendid home in Miami. She still owns all her allotment, 200 acres being in the heart of the mineral belt and the town of Cardin is partly built on it. She rents lots for business and residence purposes. She has also very valuable mineral production and large royalty income from her land. She is well-to-do, capable, and requires no supervision whatever. An extension of her restrictions is unnecessary.

Catherine Imbeau, now Kropp, Nos. 61/62. Age 33. 1/16th Blood. Allottee was married 13 years ago to Robert Kropp, a white man, and they have 2 sons. They live on her allotment, all of which she still owns, 240 acres, just south of Hockerville. They have quite a good farm home. The land is in the mineral belt and considerable development work has been done but she has had no royalty yet. She has a good common school education and is intelligent and sensible. They have some live stock and other personal property. The husband is a capable, well informed man of good business ability. She is well able to handle her own property and needs no further supervision. An extension of her restrictions would not be justified.

Isabelle Harrison, now Skye, Nos. 187/202. Age 42. Full-blood. Allottee is the wife of Frank Skye, a full-blood Peoria, who has sold all of his allotment. She still has 160 acres of her allotment and they live on 40 acres of it, where they have a very comfortable farm home. About 22 acres of the land is cultivated and this her husband farms. Besides this, she has 120 acres 5 miles southeast of Baxter, part of which is good farm land and improved with farm buildings. This she rents for a share of the crops. She attended Quapaw Mission 10 years and is quite an intelligent woman, somewhat above the average full-blood Quapaw. She frequently acts as interpreter. Her husband is a man of good habits and a good worker. She is very well qualified to handle her own property and an extension of her restrictions is not necessary.

Bertha Quapaw, now McKibben, Nos. 41/41. Age 29. Full-blood. Allottee was married 12 years ago to Jacob McKibben, a white man, and has two daughters. They live on the land of James Xavier, where her husband is farming 30 acres. She has sold all but 80 acres of her allotment, this being in two tracts; 40 acres is in the mineral belt and it is now being developed; the other 40 is rough land and brings her no income. She bought a 216 acre farm last spring out of the proceeds derived from the sale of part of her allotment and expected to improve and farm it, however, she had an opportunity to sell it this fall at a profit of about \$2000 and did so, especially as she had found another farm which suited her better. Her husband is a good farmer and careful business man. They have 9 horses and mules, two cows and calves, buggy, wagon, harness and farm tools, a Premier automobile, thirty dollars worth of War Savings Stamps, and a balance in the bank. She attended Seneca Boarding School 8 years, attaining 6th grade and is intelligent, well posted and above the average full-blood Indian. An extension of her restrictions would not be justified.

Ta-meh or Quapaw, now Hampton, Nos. 158/169. Age 35. Full-blood. Allottee was married six years ago to Ora Hampton, a mixed blood Shawnee Indian, who looks like a white man, and they have five children. They have a fine large home with water system, Delco electric lights, splendid barns, granaries, garage and outbuildings, beautifully situated on the bank of Spring River. She attended the Quapaw Mission School for eight years, and reads, writes and speaks English well, and is quite intelligent. She has received considerable money in royalties from mines, the royalty being paid to her direct and without supervision of the agency. She has considerable stock and other personal property, and about \$500.00 worth of Government bonds and War Savings Stamps. Her husband is quite progressive and a good farmer and business man. He has 450 acres of farm and pasture land, including 200 acres in wheat. He has a ten year lease on six acres known as the Devil's Promenade, adjoining his home place, which he has developed into an attractive amusement place, from which he derives a good income. Many hundred people visit this resort during the summer to enjoy the merry-go-round, riding ponies, skating rink, and other amusements. It is electric lighted from the home plant, and running water is supplied to the grounds from the home place. She is qualified to handle her own property, and an extension of her restrictions is not necessary.

Abram Ray, Nos. 54/55. Age 45. 1-16 Blood. Allottee was married 24 years ago to a white woman and they have one daughter. He still owns all his 240

acres and they live on 80 acres of it. They have a 7-room frame house, barn, garage, etc., and it is a good farm home. Thirty acres of it is in cultivation and the balance in hay meadow. His remaining 160 acres is rough land on the east end of the reservation, and is improved with some old farm buildings and has about 60 acres in cultivation. This he rents for \$125 per year. He has a good common school education and was an employe for 8 years in the Indian Service as District Farmer, being stationed at Fort Defiance, Arizona and on the Kiowa Reservation, Oklahoma. He returned to his allotment a year ago. He is said to be a man of good ability and proper habits, and is fully able to handle his own business affairs. He has always taken good care of his property and income. There is no need for an extension of his restrictions.

Sophia Redeagle, now Abrams, Nos. 136/146. Age 33. Full-blood. Allottee was married 3 years ago to Harrison Abrams, a part-blood Quapaw Indian. They have two children. They live on his allotment 5 miles south of Baxter and have a very neat 3 room frame house, barn, etc. She sold 80 acres of her own allotment and has 159.90 acres remaining in the northwest corner of the Reservation. It is not in the mineral belt and there are no buildings on it. About 73 acres is in cultivation and the balance is hay land. She rents it for \$150 a year. She attended Quapaw Mission and Seneca Boarding School 7 years and Haskell Institute 4 years, attaining 8th grade. She is intelligent, well posted, nice appearing and has no Indian ways. Her husband has had all his restrictions removed but he still owns 200 acres of his land and they live on it. It is near the mineral belt. They own some live stock and other personal property. She also has a 1/3 interest in the allotment of her father and mother, each embracing 240 acres, unrestricted. These young people are very well qualified to handle their own property successfully, and a further extension of her restrictions would not be justified.

Grace Redeagle, now Wright, Nos. 3/3. Age 46. Full-blood. Allottee was married about 8 months ago, to Charles H. Wright, a 1/4-blood Delaware Indian, her fourth or fifth husband. She lives in her own home, a splendid 12-room house, elegantly furnished and with beautiful grounds, garage, etc., in Baxter Springs. She sold 80 acres of her allotment and has 160 acres remaining, located in the mineral district and she has a large royalty income, amounting she says, "when at high tide," to \$2,000 a week. She handles this business herself, with the assistance of her husband. She is also interested as an heir in the allotment of Hulda Quapaw White, which has some mineral production. She has also inherited her son's allotment and some land to which he was an heir. She attended Quapaw Mission and the Carlisle School about 12 years all told, graduating from the latter school in 1897. She is an intelligent, well posted, sensible woman with practical business sense. She is reasonably well qualified to handle her very valuable properties without supervision. An extension of her restrictions is unnecessary.

Sarah C. Cardin, now Staton, Nos. 218/229. Age 34. 1/16th-blood. Allottee was married 18 years ago to Frank Staton, a part-blood Ottawa Indian, and they have 5 children. They live in a splendid new home on the east edge of Miami, consisting of a fine large brick house, garage, drives and large grounds. She still has 200 acres of her allotment, located in the heart of the mineral district. It has 9 mills on it and her royalty income is very large—she did not know the amount as she said her husband handled it. They have other property besides, and are well-to-do. She attended Mission and public schools, attaining eighth grade. She belongs to an excellent family and is very refined and intelligent, clever and capable. She is well qualified to handle her valuable property and business affairs, and requires no supervision. An extension of her restrictions would not be justified.

Malina Hunt Sullivan, Nos. 79/79. Age 41. 1/16th Blood. Allottee was married 25 years ago to Walter Sullivan, a white man, and they have 5 children. They live in their own home in Baxter Springs, a very good one and desirably located, purchased by her with money from the sale of 80 acres of her allotment. She still has 116.04 acres of her allotment, located in the mineral district with good prospects but there are no mills on it yet. It is prairie land and unimproved. She also owns 40 acres of purchased land, all of it in cultivation. She is a splendid woman, has a good common school education, and is intelligent, refined, and very sensible. Her husband runs a taxi in Baxter. She is well qualified to handle her own property and business without supervision. There is no need for an extension of her restrictions.

Frank Valliere, Nos. 35/25. Age 66. Half-blood. Allottee is a widower and at the time of our visit was in Colorado Springs, Colorado. When at home he lives with his daughter, Mrs. Martha Mason, in Baxter Springs, Kansas. He still owns 160 acres of his own allotment. He is said to be an intelligent man with a fairly good education. He has handled his business affairs successfully and is said to have good business ability. He does not require supervision and an extension of his restrictions would not be justified.

Florence A. Wade, Nos. 229/234. Age 63. 1/16th Blood. Allottee was never married and she lives on 160 acres of her own allotment 1½ miles North of Peoria. She has a comfortable 2-room box-house, barn, garden, well, a well kept door-yard, making it a good little farm home. The land is fenced and 35 acres of it is cultivated. The balance is used for hay and pasture. She has a good common school education and was formerly a matron in the Indian Service for 6 years. She is bright, intelligent, capable woman and is well able to handle her own property without supervision. She has some live stock and other personal property and she also has about \$500 in bank and loaned out at interest. An extension of her restrictions would not be justified.

Dillie Dardenne, now Webber, Nos. 104/107. Age 43. 1/16th Blood. Allottee was married 26 years ago to William Webber, a white man, and they have 10 children. They live on 135 acres of her own allotment 6 miles Northeast of Miami. They have a good, complete farm home, including a 6-room frame house, barn, sheds, well, orchard, etc. Nearly all of the land is in cultivation and is farmed by her husband. It is just outside the mineral belt. She has a good common school education and is an intelligent, capable woman. They own 15 horses and mules, 35 head of cattle, hogs, full outfit of farm tools, an automobile, some Liberty Bonds, etc. Her husband is a thrifty farmer. She is capable of handling her own property and needs no supervision. She is to all intents a white woman. An extension of her restrictions is unnecessary.

Lizzie Imbeau, now Weiss, Nos. 60/61. Age 35. 1/16th Blood. Allottee was married 16 years ago, to Martin Weiss, a white man. They have 5 children. They live one mile North of Baxter, on 20 acres of land which they recently purchased, improved with a good, 5-room house, barn, well, etc. She stated that she still owned her entire allotment, although it appears only 160 acres is still restricted. 200 acres of her land is just South of Hockerville, in the mineral district, but there has been no production from the mines on it yet. It is improved with some old farm buildings, and about 60 acres of the land is cultivated. They lived on the place until last winter. She also owns 40 acres of inherited land. She has a good common school education and is quite intelligent and fairly well posted. Her husband is quite a capable man of good habits and good business ability. She is capable of handling her property intelligently and requires no supervision. She is practically a white person. There is no need for an extension of her restrictions.

Ethel May Crawfish, now Woodard, Nos. 98/100. Age 28. Half-blood. Allottee is married to Charles F. Woodard, a white man. She attended St. Mary's Catholic Mission school for five years and the Seneca Indian Boarding School one year. She reads, writes and speaks the English language well. There are valuable mineral deposits on her land and she receives royalties from operating mines and has a bank balance of \$6362.55. She has bought a good farm south of Strang, Oklahoma, where she lives and upon which she is placing valuable improvements. The restrictions have been removed from 48.67 acres of her allotment, leaving 189.20 acres restricted. There is no necessity for extending the restrictions.

William B. F. Valliere, Nos. 37/37. Age 29. 1/4th Blood. Allottee is a Quapaw Indian, married to a white woman, and they have two children, ages five and eight years. He attended public school at Baxter Springs, Kansas, and the St. Mary's Catholic Indian Mission School. He reads, writes and speaks English. He is quite well educated, and has the appearance and ways of a white man. He has lived in town a great deal and has had extended contact with white people and business men. He is fully capable of taking good care of his property and of making his own way successfully. His restrictions have been removed, unconditionally, from 160 acres of his land, at four different times, and he now has only 80 acres restricted. He needs no further supervision and an extension of his restrictions would not be justified.

James Vallier, Nos. 34/34. Age 39. Full-blood. This allottee is a widower and has no children. He attended the Quapaw Mission School for a few years and Haskell Institute for seven years, learning the blacksmith trade and being

a first class mechanic. He conducted his own blacksmith shop in Baxter Springs, Kansas, for a number of years. This he disposed of to enter the Indian Service. He is now employed at Truxton Canon Indian School in Arizona. He has had the restrictions removed on all but 40 acres of his allotment unconditionally and sold the same. He has had extended contact with progressive people and business men and is well able to handle his own property and business affairs. An extension of his restrictions is not necessary.

J. R. WISE,

Special Supervisor.

CARL F. MAYER,

Superintendent, Competency Commissioners.

QUAPAW INDIAN AGENCY, Miami, Oklahoma, January 8, 1921.

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